

**From:** [Covington, Tayler](#) on behalf of [Region2 PAD News](#)  
**Subject:** News Clips  
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## Region 2 News Clips

[Norcross, Menendez push action on military firefighting chemical](#) (BURLINGTON COUNTY TIMES; March 24, 2019)

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[Lawmakers vote to block Finger Lakes trash incinerator](#) (GREENWIRE; March 22, 2019)

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[Suffolk plastic bag use down by 1.1 billion, report says](#) (NEWSDAY; March 22, 2019)

Some Suffolk County shoppers were outraged when a 5-cent fee on single-use plastic and paper bags went into effect in January 2018 but officials said the law is working as intended.

[Editorial: State must fund new lead regs](#) (THE DAILY GAZETTE; March 22, 2019)

Something as important as protecting children from lead poisoning should come with legislation — and the taxpayer money to back it up.

[Suez Speeds Replacement of Lead Service Lines, Aims for 25% by End of Year](#) (NJ SPOTLIGHT; March 22, 2019)

The Suez water company yesterday said it will step up replacing lead service lines in northern New Jersey that have fouled drinking water for thousands of customers, vowing to spend \$15 million to remove 25 percent of the lead in its system by the end of the year.

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More than 500,000 gallons of raw or partially treated sewage flowed into the Mohawk River in 2017-2018, and around two billion gallons went into the Hudson — a significant amount of it from Capital Region communities.

[State Senate passes bill banning garbage incinerators in Finger Lakes](#) (BINGHAMTON PRESS & SUN-BULLETIN; March 21, 2019)

The New York State Senate unanimously passed a bill Tuesday that would block the construction of garbage incinerators in the Finger Lakes region.

[Hugo Neu Group taps EPA innovator to lead sustainability, climate resiliency initiatives](#) (NJBIZ; March 22, 2019)

U.S. Environmental Protection Agency veteran Dominique Lueckenhoff has joined the Hugo Neu Realty Corp. executive team as senior vice president of corporate affairs and sustainability for the Kearny Point project.

## National News

- Air

- [Bloomberg Environment: Senators Urge More Action on Ethylene Oxide Monitoring](#)
- [Chicago Tribune: Air testing after Sterigenics was shut down shows 'rapid drop' in cancer-causing gas in Willowbrook, EPA official says](#)
- [CBS Chicago: Matt Haller, 45 Is First Litigant To Pass Away After Filing A Lawsuit Against Sterigenics: 'To Think This Company Could Have Literally Been Behind My Death Is Shocking'](#)
- [Inside EPA: USC, Harvard scientists criticize CASAC air pollution review shift](#)
- **Chemical/PFAS**
  - [Bloomberg News: Wall Collapse at Houston Fire Site Prompts Take-Cover Alarm](#)
  - [Bloomberg Environment: EPA Release Previously Health Data on Pigment](#)
  - [E&E News: Residents fret about chemical plant fire, despite assurances](#)
  - [E&E News: Wis. retreats from legal attack on Obama mercury rule](#)
  - [E&E News: Could PFAS concerns sway the Democratic presidential contest](#)
  - [Inside EPA: Air Force Seeks to Preserve Federal Test Case On State PFAS Enforcement](#)
  - [Houston Public Media: EPA Says Situation Becoming Stable In Deer Park, ITC Warns About Potential Benzene Emissions During Cleanup](#)
- **Cleanup/Superfund**
  - [Bloomberg Environment: EPA, Sherwin-Williams Seek Approval of \\$1.4M Cleanup Accord](#)
  - [Inside EPA: States Bolster Standing Claims In Suit Over EPA Landfill Methane Rule](#)
  - [Montana Standard: Butte to have consent decree by August, says EPA](#)
- **EPA**
  - [E&E News: Judge tosses challenge to advisory panel membership policy](#)
  - [E&E News: EPA proposes New Source Review accounting change](#)
  - [Inside EPA: EPA 'Lean' Office Chief Leaving But Contentious Efficiency Plan Continues](#)
- **Hazardous**
  - [E&E News: Green groups sue EPA over lack of spill regs](#)
- **Water**
  - [Inside EPA: California Wastewater Utilities Appeal Suit Over CWA Permit Test Method](#)
  - [Think Progress: EPA's 'secret science' proposal being used by Big Oil to undermine clean water rules](#)
  - [Think Progress: Ongoing Midwest flooding project to cost billions of dollars in damages](#)

# Full Articles

## Region 2 News

BURLINGTON COUNTY TIMES

### [Norcross, Menendez push action on military firefighting chemical](#)

By Kyle Bagenstose

March 24, 2019

Congressman Donald Norcross has introduced a bill to provide blood testing for military firefighters potentially impacted by PFAS chemicals. Meanwhile, Sen. Bob Menendez is asking the Department of Defense to turn over records related to an alleged effort to influence EPA science on the chemicals.

U.S. Rep. Donald Norcross has introduced a bill to provide blood testing for military firefighters who were potentially exposed on the job to toxic per- and polyfluoroalkyl substances, or PFAS. Meanwhile, his colleague in the Senate, U.S. Sen. Bob Menendez, is pushing for the Department of Defense to release documents pertaining to an alleged effort to influence an upcoming PFAS policy decision by the Environmental Protection Agency.

The chemicals have drawn increased scrutiny over the past several years, after they were used for decades in commercial products such as Teflon pans and water-resistant clothing, as well as for military applications such as firefighting foams. The Department of Defense is now investigating more than 400 bases where the foams were used, including Joint Base McGuire-Dix-Lakehurst and a pair of former Navy bases across the Delaware River in Bucks and Montgomery counties. Two primary chemicals in the firefighting foams, perfluorooctane sulfonate (PFOS) and perfluorooctanoic acid (PFOA), have been linked by some studies to high cholesterol, ulcerative colitis, thyroid disease, reproductive and developmental issues, some cancers, and other health effects.

Firefighters who used and trained with the foams say they've been largely overlooked, as the federal government and state regulators work to address high levels of exposure to off-base, civilian residents. Norcross says his bill, the Protecting Military Firefighters from PFAS Act, is designed to support the firefighters.

"Military firefighters respond to our nation's emergencies, but we're not responding to their health needs. That's unacceptable," Norcross, D-1st, of Camden, said in a prepared statement. "Considering the recent trends, our military should take this simple proactive step to add a needed blood test so servicemembers have all of the health information they need."

Norcross' bill is just [two pages](#), and simply states that PFAS blood testing be included in annual physicals required by the Department of Defense for its firefighters. Nicholas Foufas, senior vice president of IAFF Local F-313, which represents firefighters at Joint Base McGuire, touted the efforts.

"As Federal Firefighters, we dedicate our careers to protect those who defend America and the communities around the various installations," Foufas said in a statement. "This Local supports the monitoring that is called for in the Protecting Military Firefighters from PFAS Act."

According to Norcross, the joint base employs more than 40,000 military and civilian employees and contributes \$7 billion a year to the New Jersey economy. Hundreds of thousands of gallons of firefighting foam [were used](#) at the Joint Base for decades. The military has been investigating PFAS contamination at the base, including the testing of more than 250 private drinking water wells, although it has found just five above an EPA health advisory level for the chemicals.

The chemicals were also found above the EPA safety limit in two on-base drinking water supply wells serving a population of about 3,000 on the Lakehurst portion of the base in Ocean County. The military said those wells were only used to back up a deeper, uncontaminated primary well, but an [investigation](#) by this news organization found they supplied tens of millions of gallons of water over the prior decade.

Norcross' bill is joined by a [companion bill](#) in the Senate, which has bipartisan sponsors in Sens.

Jeanne Shaheen, D-New Hampshire, and Lisa Murkowski, R-Alaska.

“The potential health effects related to PFAS contamination are distressing, especially for military firefighters who have bravely served at more than 400 bases around the nation found to be contaminated with these materials,” Shaheen said in a statement. “These heroes may have experienced long-term exposure to these contaminants. While the health impacts of PFAS are still being studied, we must ensure accountability and transparency to keep people informed of their exposure to these chemicals.”

Also active on PFAS issues this week is Menendez, who joined 16 of his Democratic colleagues, including Pennsylvania’s Sen. Bob Casey, in issuing [a letter](#) to the Department of Defense and Environmental Protection Agency, asking them to turn over any communications they’ve had with the White House regarding the EPA’s development of groundwater cleanup recommendations for the chemicals.

The letter cites reporting in [The New York Times](#) and a letter from Sen. Tom Carper, D-Delaware, alleging the Department of Defense is pressuring the EPA to raise a drafted cleanup number from 70 parts per trillion (ppt) to 400 ppt, potentially eliminating significant liabilities across the country. PFAS was detected as high as 102,000 ppt in groundwater near fire training area adjacent to an airstrip in Lakehurst, military documents show.

“If this reporting is accurate, the DOD’s actions may endanger the health of service members and families who live and work near the 401 military installations where there are known or suspected releases of PFAS chemicals in the drinking water or groundwater,” the senators wrote in a letter to Department of Defense Acting Secretary Patrick Shanahan and EPA Administrator Andrew Wheeler. “We urge you to act in the best interests of impacted communities and support efforts to develop groundwater and drinking water standards that will protect the public from the health hazards associated with PFAS contamination.”

In addition to a request for the documents, the lawmakers asked the agencies to “provide a joint agency briefing to our offices and interested members on interagency efforts on this issue, as well as regular updates on the progress of those efforts.”

[BACK TO TOP](#)

GREENWIRE

### [Lawmakers vote to block Finger Lakes trash incinerator](#)

March 22, 2019

State lawmakers in New York have voted to block plans for a massive trash incinerator proposed for the Finger Lakes region.

By a unanimous vote, the state Senate passed legislation Wednesday that would prohibit the project from moving forward.

The Assembly passed the bill last week. Gov. Andrew Cuomo (D) has already expressed objections to the project.

Environmental groups and local residents had opposed plans for the incinerator between Seneca and Cayuga lakes, citing concerns about the environment, agriculture and tourism.

The facility was to generate energy by burning thousands of tons of trash each day at the former Seneca Army Depot in the town of Romulus.

The company behind the project, Rochester-based Circular enerG, had argued that the incinerator would have created clean energy by burning trash that otherwise would be sent to a landfill. — *Associated Press*

[BACK TO TOP](#)

NEWSDAY

[Suffolk plastic bag use down by 1.1 billion, report says](#)

By Tory N. Parrish

March 22, 2019



Some Suffolk County shoppers were outraged when a 5-cent fee on single-use plastic and paper bags went into effect in January 2018 but officials said the law is working as intended.

Not only were 1.1 billion fewer plastic bags used in the county last year, but the number of bags found polluting shorelines fell steeply compared with 2017, according to a report on the law's progress that was released Thursday.

"So just think about that and what a difference it makes," Legis. William Spencer (D-Centerport), who sponsored the bill, said Thursday.

Spencer and other government officials, environmental advocates, and retail and education representatives attended a news conference at the legislature building in Hauppauge to present the report.

On Jan. 1, 2018, the county law began requiring supermarkets, pharmacies, clothing stores and other retailers to charge customers 5 cents for each single-use plastic or paper bag they use to carry purchases. The law aims to boost reusable bag use and reduce the number of single-use plastic bags polluting waterways.

Last year at stores in Suffolk, utilization of single-use plastic bags was down 81.7 percent and single-use paper bags was down 78.8 percent compared with 2017, according to the report, which cited data from the Food Industry Alliance of New York State, a trade group that represents the grocery industry.

In addition, teams from the 5 & 5 Education and Effectiveness Working Group, which was created by the Suffolk Legislature to study the impact of the law, were stationed outside stores to analyze bag use before and after the law went into effect.

Observing customers in November and December 2017 and in the two-month period in 2018, the teams found that use of reusable bags or no bags increased from 27.8 percent to 60.1 percent, according to the report.

The report also showed that, between 2017 and 2018, there was a 42 percent decrease, to 1,552, in plastic bags that cleanup volunteers found littering Suffolk shorelines.

The bag-fee legislation mandates that the county's Department of Health Services prepare an annual recycling report by March 1 on the legislation's progress, including information on any cost savings for the county from reductions in contaminated waterways and on the benefits of waste and litter reduction.

Data on the cost savings associated with the law, however, was not in the report Thursday. Spencer said that the report would be forwarded to the budget review office to create a financial analysis, and he expected that to take a few weeks.

The county does not receive any portion of the fees collected for bags.

"Our objective is not to collect nickels. Our objective is to change public behavior," said Adrienne Esposito, executive director of the Citizens Campaign for the Environment, an advocacy group based in Farmingdale.

There are 21 cities, towns and villages in New York State that have enacted single-use bag fees or bans, including Long Beach and the Village of Sea Cliff in Nassau County, according to the Citizens Campaign for the Environment. New York City's fee was blocked by Gov. Andrew M. Cuomo in 2017.

Attempts to create a bag-fee law in Nassau County have not been successful. Nassau Legis. Debra Mulé (D-Freeport) sponsored a bag-fee bill in May that has stalled. Legis. Richard Nicoletto (R-New Hyde Park), presiding officer of the Nassau Legislature, in the past has criticized the proposal as "a burden on taxpayers." The GOP majority had no plans to schedule a public hearing or bring a bill to committee.

Part of the objection to the proposal is that the bag fees don't go to environmental programs, said Frank Moroney, director of communications for the GOP majority.

Also, the bill was held because a uniform statewide bill is pending, he said.

[BACK TO TOP](#)

THE DAILY GAZETTE

### [Editorial: State must fund new lead regs](#)

By Gazette Editorials Board

March 22, 2019



Something as important as protecting children from lead poisoning should come with legislation — and the taxpayer money to back it up.

So as state lawmakers and the governor enter the final week's frenzy over the state budget before the April 1 deadline, they should both approve new legislation to lower the threshold for lead in children's blood and provide the necessary funding for county health departments to support the additional workload they'll encounter enforcing the new standards.

The bill (A5779/S1028) would change the definition of “elevated blood lead levels” from the current 10 micrograms of lead per deciliter of whole blood to 5 micrograms.

Lowering the threshold will allow public health officials and doctors to take action more quickly to address children’s exposure to lead, allow them to provide treatment more quickly, and perhaps lessen the severity of damage.

Children become exposed to lead through peeling paint and dust in older homes, as well as through lead in pipes.

Lead paint exposure is particularly prevalent in poorer neighborhoods.

Lead can affect the production of blood cells and the absorption of calcium needed for strong bones and teeth, muscle movements, and nerves and blood vessels. High lead levels can lead to brain and kidney damage.

According to the U.S. Centers for Disease Control and Prevention, blood test data from 2014 indicated that nearly 2,000 children in the state outside New York City had lead levels between 5 and 9 micrograms and that 6,000 children in New York City had that level in their blood. So lowering the threshold will have meaningful health impacts.

But as with any change worth making, this legislation comes with a price tag.

Counties will have to conduct more home inspections for lead contamination and provide treatment for thousands of more children.

The New York State Association of County Health Officials estimates the new standards could cost county health departments about \$35 million more per year in additional nurses and staff, the Times Union reported.

While officials are unsure what exact steps county officials would have to take to address the new thresholds, it’s clear that since it will affect many more children that more staff will be needed.

The bill passed the Assembly earlier this month and is currently before a Senate committee.

If county officials are estimating that \$35 million is needed, then lawmakers must put at least that much money in the budget to support this legislation.

If officials later find the problem isn’t as extensive as they thought, then the state can find other uses for the money.

But at the outset, there has to be enough money available up front for the counties to do a full and effective job dealing with a potential increase in cases and inspections.

Our children’s health demands it.

[BACK TO TOP](#)

NJ SPOTLIGHT

**[Suez Speeds Replacement of Lead Service Lines, Aims for 25% by End of Year](#)**

By Tom Johnson

March 22, 2019





The Suez water company yesterday said it will step up replacing lead service lines in northern New Jersey that have fouled drinking water for thousands of customers, vowing to spend \$15 million to remove 25 percent of the lead in its system by the end of the year.

The replacement program is much more aggressive than the previous announcement by the company, which had come under pressure from towns to speed up replacements initially projected to take as long as 14 years.

The company, which serves 800,000 customers in northern New Jersey, detected unsafe levels of lead in 15 of 108 homes tested last summer, results that were disclosed in January. Like most other cases where levels of lead have been found in tap water, the problem is blamed on lead service lines connecting customers with water mains in the streets.

"It's a phenomenal first step," said Oradell Council President Tracy Schoenberg, one of nearly 8,600 customers with a lead service line owned by Suez. "It's exactly the type of commitment we wanted to see."

Suez said it will replace as many as 100 lead service lines a week and 2,400 by the end of the year. The goal is to replace all lead service lines and the 12 percent of lines that have lead goosenecks — small flexible pipes about 18 inches long that connect a service line to a water main.

### **No details on final cost**

"At this moment, I can't give you a time frame," said Debra Vial, director of communications for Suez, referring to when the company will finish the replacement program, or its ultimate cost.

For communities, like Oradell, not in the first wave of service line replacements, they would like to have a better idea when the company will get around to their towns. "We kind of wonder where we are in the queue," Schoenberg said.

Lead can cause serious health issues, especially for pregnant women, infants, and young children. Lead poisoning can cause significant, lifelong physical and mental complications.

"This has been an all hands on deck effort to attack this issue," said Mark McKoy, Suez vice president and general manager. "It's a targeted approach that will maximize the amount of lead removed."

Within weeks, work will begin in eight municipalities that have the highest number of lead service lines: Bogota, Hackensack, North Bergen, Ridgefield Park, Rutherford, Teaneck, Union City and West New York.

### **Coordinating with road construction projects**

In addition, Suez is working with Bergen County to coordinate the replacement of lead service lines with road reconstruction projects. The utility's service lines will be replaced in East Rutherford and Little Ferry in connection with transportation work there.

Many other communities are struggling with lead in drinking water, a problem well recognized by state officials but one that has defied easy solution. By some estimates 350,000 New Jersey homes and businesses have lead service lines coming into their structures.

In Newark, lead in tap water is a pervasive problem with two in five sampled homes having the



contaminant in their drinking water above federally recommended action levels. Earlier this month, the city launched a \$75 million project to replace 15,000 lead service lines.

[BACK TO TOP](#)

THE DAILY GAZETTE

### [Sewage still flowing into local rivers](#)

#### **Environmentalists push for \$2.5 billion to go into the state budget**

By Stephen Williams

March 21, 2019



More than 500,000 gallons of raw or partially treated sewage flowed into the Mohawk River in 2017-2018, and around two billion gallons went into the Hudson – a significant amount of it from Capital Region communities.

Those recently released figures from the state Department of Environmental Conservation are being highlighted by environmental advocacy groups as they push for inclusion of an additional \$2.5 billion for water and wastewater infrastructure grants in the new state budget, which is due April 1.

While Gov. Andrew Cuomo in January pledged \$2.5 billion for water and wastewater infrastructure, when details emerged, it turned out to be a pledge of \$500 million per year for each of the next five years – and environmental groups would like to see it all this year.

"With 2.5 billion gallons of sewage being released to the Hudson River Watershed, we're asking the Governor and Legislature to commit to another \$2.5 billion to reduce this scourge," said Dan Shapley, water quality program director with Riverkeeper, a Poughkeepsie-based environmental group.

Most of the sewage flow occurs during storms or heavy snowmelt when municipal sewage collection systems are overwhelmed with water.

Riverkeeper on Thursday released a separate report highlighting whether the Mohawk is considered swimmable, based on the organization's bacterial sampling at 35 locations on the river and its major tributaries throughout the year. The report found most spots on the river are swimmable about half the time – an improvement over previous years.

"The Mohawk is getting better. These results show that when we invest to fix our pipes, the result is clean water," Shapley said.

The 11th annual Mohawk Watershed Symposium, devoted to issues facing the river, takes place Friday at Union College. DEC is expected to announce a new watershed management plan at the symposium.

The DEC Sewage Pollution Right-to-Know annual summary covers April 1, 2017, to March 31, 2018, meaning some recent events, like a 1.5 million gallon spill in Amsterdam last summer, are not included in the data. The Sewage Pollution Right-to-Know law, in place since 2013, requires municipalities to report sewage discharges to DEC and the public within hours of when they occur, and to estimate the amount discharged.

While communities can face fines in some cases, DEC also often uses the information to pressure communities to make improvements that will address the problems.

Overall, DEC estimates 6.25 billion gallons were discharged into New York waterways during that period, with the Hudson receiving the most discharges. For the 12-month period, there were about 2,550 reported municipal wastewater discharges statewide.

DEC says the primary cause of untreated sewage discharges across the state remains rain and snow melt running into the combined stormwater-sewer systems in older communities, overwhelming the capacities of their sewage treatment plants.

"These types of overflow events are preventable and correctable by removing storm water and other illegal connections to the sanitary sewers, separating combined sewers, sealing defective manholes and replacing or rehabilitating broken sewer pipes," the DEC report says.

That's where the need for funding comes in. The backlog of needed projects would cost in the tens of billions. While environmental groups acknowledge there's been progress, they say more funding is needed.

"Investments in infrastructure are paying off – communities are fixing their pipes and protecting their water. But we have to keep this momentum going," said Rob Hayes, clean water associate at Environmental Advocates of New York in Albany and author of a recent report called "Untapped Potential: Water Infrastructure Spending in New York."

That report estimates there are 22,000 miles of municipal sewer pipe in the state, and about one-third of that pipe is more than 60 years old, meaning it has exceeded its expected lifespan.

In a statement on Thursday, DEC officials said the state is making major commitments across the state, including in the Mohawk watershed.

"New York leads the nation with the largest annual investment in water-quality infrastructure of any state," the agency said. "The Governor's 2019-2020 Executive Budget Proposal builds upon those significant investments with a proposal to boost the historic \$2.5 billion Clean Water Infrastructure Act of 2017 by another \$2.5 billion over the next five years, bringing the total to \$5 billion to support programs to assist communities with upgrading clean water infrastructure. This is the largest grant program of its kind in the United States."

The state separately offers communities low- and zero-interest loans for municipal wastewater projects, DEC officials noted.

DEC said it has provided \$13.4 million in water or wastewater grants to Mohawk Valley communities since 2015, and the Environmental Facilities Corp. has provided \$21 million in loans.

In late 2017, Amsterdam, Fonda and St. Johnsville all received grants for infrastructure construction projects. In late 2018, Cuomo announced similar grants to Schenectady (for the new Ferry Street pump station), Duanesburg, and the Albany Water Finance Authority, which aids a pool of communities in Albany and Rensselaer counties that all discharge wastewater into the Hudson.

Smaller DEC grants have been awarded recently for infrastructure engineering and planning, which could lay the groundwork for infrastructure replacement or construction.

Those grants include \$50,000 to Schenectady to study how the city can address sewer overflows; \$30,000 to Rotterdam to study how to address stormwater inflow/infiltration issues; \$30,000 to Glenville to study developing a new sewage treatment plant and extend collection to unsewered areas; and \$30,000 to the Montgomery County village of Nelliston for an inflow/infiltration study.

[BACK TO TOP](#)

BINGHAMTON PRESS & SUN-BULLETIN

### [State Senate passes bill banning garbage incinerators in Finger Lakes](#)

By Thomas Giery Pudney

March 21, 2019

The New York State Senate unanimously passed a bill Tuesday that would block the construction of garbage incinerators in the Finger Lakes region.

The "Finger Lakes Community Preservation Act," which was passed by the Assembly last week, would bar issuance of permits for new incinerator facilities in the region, including the proposal to build a new trash incinerator on a 48-acre parcel of the Seneca Army Depot in Romulus.

The bill, which had significant bipartisan support, sailed through the state's upper chamber by a vote of 62 to 0 on Wednesday.



"This proposed trash incinerator has stood as a serious threat to the quality, health and overall safety of many communities throughout the Finger Lakes and Southern Tier regions," said state Sen. Tom O'Mara, R-Big Flats, a co-sponsor of the bill. "The action to stop it is a great credit to the environmental advocates, winery owners, farmers, business and community leaders, and every concerned citizen who have worked together to lead the charge against it. We urge Governor Cuomo to swiftly sign this legislation into law."

Advocates expressed gratitude to the lawmakers who helped move the legislation and urged the governor to sign the bill into law.

"A broad coalition of environmental groups, businesses and local and regional governments support this bill because the proposed incinerator would harm the environment and threaten the growing winery and tourism industries," said Joseph Campbell, president of Seneca Lake Guardian. "We urge Governor Cuomo to sign this bill so we can put this outrageous proposal behind us and go back to growing the Finger Lakes economy."

Attorneys for Circular EnerG, the company proposing the incinerator, called the bill a "step back for the environment."

"Current waste to energy technology results in no real air pollution and conservation of resources, so we burn waste rather than fossil fuels, and reduce greenhouse gas emissions," said Alan Knauf, of Knauf Shaw LLP. "Landfilling causes far greater greenhouse gas emissions from methane, terrible odors and dioxin emissions from uncontrolled burning of plastics."

Knauf said the company still plans to pursue approval of the plan and are waiting to hear a decision from a judge on re-zoning.

"Recycling is a sham today," Knauf said, "with plastics we thought were being recycled ending up in the middle of the Pacific Ocean."

The proposal now heads to the desk of Gov. Andrew Cuomo, who expressed support for the legislation in May of 2018.

"We'd have to review the specific language, but the governor has been on record voicing strong concerns about its effects on the region's environment, public health and agricultural industry," said Rich Azzopardi, senior adviser to Cuomo.

[BACK TO TOP](#)

NJBIZ

### **[Hugo Neu Group taps EPA innovator to lead sustainability, climate resiliency initiatives](#)**

By Linda Lindner

March 21, 2019

U.S. Environmental Protection Agency veteran Dominique Lueckenhoff has joined the Hugo Neu Realty Corp. executive team as senior vice president of corporate affairs and sustainability for the Kearny Point project.

Central to the mission for the development is sustainability, especially in light of the damage sustained during Hurricane Sandy. Dominique, who has been an influential policy leader for the EPA, will be overseeing some ambitious infrastructural overhauls for the massive site.

The project is a 4-million-square-foot, \$1 billion redevelopment initiative just outside of New York City.

Kearny Point is a former World War I / World War II shipyard in Kearny that during wartime employed over 30,000 workers. Following the war, it was used as a scrapping facility for ships, and was ultimately wiped out under seven feet of water from Hurricane Sandy.

Hugo Neu, the owner-developer of a recycling company, is in the midst of a redevelopment to turn Kearny Point into a modern, progressive work campus for entrepreneurs, small businesses and light manufacturing uses.

More than 200 companies have established themselves at Kearny Point in the first three years, and more than half are minority- or women-owned.

Every aspect of the project's revitalization will pursue maximum reliance on renewable energy sources, high-efficiency building systems and green infrastructure measures. This will include green roofs/blue roofs, naturalized detention basins, bio-swales, advanced stormwater filtration systems, and the removal of impermeable surfaces throughout.

Further aligning with its sustainable vision, Kearny Point will comprise 27 acres of new, publicly-accessible park and open green spaces, replacing asphalt surfaces with locally-propagated plants, including non-invasive and preservation species, selected to provide a viable habitat for birds, animals and beneficial insects.

Additionally, energy efficient renewables like PV solar panels and wind turbines will generate up to 4.5 megawatts of onsite renewable energy and develop baseline greenhouse gas impact analysis and commit to onsite greenhouse gas offsets.

[BACK TO TOP](#)

National News

## **Bloomberg Environment**

### **Senators Urge More Action on Ethylene Oxide Monitoring**

<https://news.bloombergenvironment.com/environment-and-energy/senators-urge-more-action-on-ethylene-oxide-monitoring>

**Stephen Joyce**

**Friday, March 22, 2019**

- Testing at Sterigenics facility shows marked emissions fall after facility shutdown
- Company says drawing conclusions ‘premature,’ as emissions occur in ambient air

The Environmental Protection Agency should expand air monitoring activities to more Illinois industrial sites emitting ethylene oxide after agency data appeared to show links between the probable carcinogen and a facility emitting the gas, the two senators from the state said.

Ethylene oxide is a flammable, colorless gas used to sterilize medical equipment and make products such as antifreeze. According to the EPA, breathing air containing elevated levels of the chemical over many years increases the risk of some types of cancers, including non-Hodgkin lymphoma and breast cancer.

EPA data released March 21 showed ethylene oxide emissions levels at each of the 10 EPA air monitoring sites near a Willowbrook, Ill., facility operated by Sterigenics U.S. LLC decreased at the end of February compared with the beginning of the month and January. The facility, which uses ethylene oxide to sterilize medical equipment, was effectively shut down by the Illinois EPA Feb. 15 when the agency issued a seal order prohibiting use of the gas at the facility.

Sens. Richard Durbin (D-Ill.) and Tammy Duckworth (D-Ill.) both issued statements saying the data should compel the federal EPA to expand its monitoring activities to two additional facilities in Illinois that use the gas.

The U.S. EPA is using a variety of tools to learn about potential risks near Lake County facilities the agency has identified as potentially having elevated risks, the agency said in a statement sent to Bloomberg Environment March 22. It is not, however, currently conducting any ambient monitoring.

The data suggest Sterigenics is the main source of ethylene oxide emissions at the Willowbrook facility, putting families at risk, Duckworth said in a string of tweets.

“EPA must start collecting data at facilities using this same sterilizer in Lake County. Illinoisans deserve to know whether public health dangers exist in their communities,” Durbin said in a tweet.

Sterigenics said in a statement that the continued detection of ethylene oxide at monitoring sites, even after its facility was shuttered, proves the existence of ethylene oxide in the ambient air in Willowbrook. The company has said its facility complies with all state and federal permitting requirements and emits less than 0.1 percent of the ethylene oxide used during its process of sterilizing medical equipment.

[BACK TO TOP](#)

**Chicago Tribune**

**Air testing after Sterigenics was shut down shows 'rapid drop' in cancer-causing gas in Willowbrook, EPA official says**

<https://www.chicagotribune.com/news/local/breaking/ct-met-sterigenics-epa-air-quality-testing-20190320-story.html>

**Michael Hawthorne**

**Friday, March 22, 2019**

After collecting air samples for three months, federal inspectors had planned to wrap up their study of cancer-causing ethylene oxide in west suburban neighborhoods near Sterigenics.

But when Gov. J.B. Pritzker's administration banned the Willowbrook facility from using the highly toxic gas on Feb. 15, a team from the U.S. Environmental Protection Agency saw an opportunity rarely afforded to regulators.

Instead of dismantling the monitoring equipment posted near homes, schools, parks and government buildings, EPA officials kept it in place for the rest of the month, providing them with six days of results when the company wasn't operating its sterilization chambers or releasing ethylene oxide into the community.

No spikes of the chemical were detected during the period, unlike many of the testing days before state regulators effectively shut down the Willowbrook facility, according to EPA documents released Thursday.

Average levels of ethylene oxide after the shutdown were at least 50 percent lower at each of the 10 monitors, the documents show, and more than 90 percent lower at the testing locations closest to Sterigenics.

"We're seeing a pretty rapid drop since the seal order," Lewis Weinstock, an EPA official overseeing the agency's testing, told residents Thursday during an online seminar, referring to the legal term for the action taken by the Pritzker administration.

Federal officials plan to keep collecting samples through the end of March, in part because unexplained concentrations of ethylene oxide continue to be detected at some locations even though Sterigenics isn't releasing it into the air. Possible sources include other upwind facilities or lingering emissions from Sterigenics, Mike Koerber, associate director for policy at the EPA's Office of Air Quality Planning and Standards, said during the seminar.

Based on information the agency already has collected, Koerber said, EPA scientists are conducting a more detailed evaluation of cancer risks in Willowbrook and surrounding suburbs — a document expected to be released to the public before a community forum in late May.

Spikes of ethylene oxide detected at some locations during the weeks before the Sterigenics shutdown were significantly higher than levels of the toxic gas that initially raised concerns last year



at the EPA and the Agency for Toxic Substances and Disease Registry, an arm of the federal Centers for Disease Control and Prevention.

In an August report on Willowbrook, the ATSDR concluded that the maximum concentration of ethylene oxide detected at that point in residential areas — 2.1 micrograms per cubic meter of air — could trigger more than six cases of cancer for every 1,000 people exposed over 33 years. The EPA considers it unacceptable for a community to face cancer risks greater than 100 cases per 1 million people exposed to air pollution — or 0.1 in 1,000.

Between November and February, average daily concentrations of ethylene oxide before the Sterigenics shutdown were as high as 10.8 micrograms per cubic meter in residential areas, according to the EPA. At a warehouse next door to the facility, levels were as high as 26.4 micrograms per cubic meter.

Levels have varied widely at each monitoring location, dictated largely by wind direction related to Sterigenics, Weinstock said. Spikes were recorded when prevailing winds blew from the facility toward specific monitors, while concentrations measured upwind of Sterigenics during the same day were significantly lower.

Under its state-issued permit, Sterigenics can legally emit up to 36,400 pounds of ethylene oxide annually; actual emissions reported by the company since 2006 have ranged from 4,200 to 7,340 pounds a year.

The company stresses that less than one-tenth of 1 percent of the ethylene oxide it uses is released into the atmosphere. At issue is whether even that amount, though permissible under the company's permit, endangers neighbors in densely populated communities near the facility.

"While it remains premature to draw conclusions regarding the long-term health risks based on the U.S. EPA's data, we believe the results released today provide further evidence that there are other sources of EO in Willowbrook aside from the Sterigenics Willowbrook facility," the company said in a statement.

The Stop Sterigenics community group urged the Pritzker administration to revoke the company's permit. It also called for more rigorous scrutiny of other sources of the toxic gas across the nation.

"Over a quarter million pounds of ethylene oxide is reportedly emitted each year in the U.S. alone," the group said in a statement, referring to federal emissions data. "It is clear that there is an urgent need for more rigorous ... legislation and regulation to protect residents from past and future exposure."

Sterigenics is attempting to persuade a federal judge to throw out the state's seal order. On March 11, another federal judge rejected the company's bid to resolve a related dispute in U.S. District Court in Chicago, sending back to DuPage County Circuit Court a lawsuit filed by the Illinois attorney general's office and Robert Berlin, the DuPage County state's attorney.

During the 1930s, a corporate predecessor to Sterigenics pioneered the use of ethylene oxide to ensure that heat-sensitive surgical equipment and other goods are germ-free. Medical devices and equipment account for the vast majority of products sterilized at the Willowbrook facility in recent years, according to company documents shared with state lawmakers.

The chemical is an effective fumigant. But by the late 1940s scientists realized that it also mutates DNA and triggers neurological problems.

The volatile, easily absorbed chemical has been on the federal list of carcinogens since 1985. In December 2016, the EPA released a long-delayed reassessment linking it more conclusively to breast cancer, leukemia and lymphomas.

Independent scientific reviewers agreed with EPA researchers who concluded the chemical is far more dangerous than previously thought. Long-term exposure to concentrations as small as 0.003 micrograms per cubic meter increases the chance a person will develop cancer, the EPA concluded.

Shortly after the EPA officially adopted its updated evaluation of the chemical, the agency began updating its semiregular National Air Toxics Assessment, a screening tool used to identify areas where more investigation is needed.

Out of 73,057 census tracts in the U.S., the EPA found, seven tracts near Sterigenics are among 109 with cancer risks exceeding the agency's guidelines.

More than 25,000 people live within the tracts surrounding Sterigenics, which is located in a cluster of nondescript commercial and government buildings behind a Target store off Illinois Route 83 and the Stevenson Expressway.

Four schools and a day care center are within a mile of the facility, including Hinsdale South High School in Darien and Gower Middle School in Burr Ridge.

In October, Willowbrook Mayor Frank Trilla called the reports from federal agencies an "information dirty bomb." Trilla and other local officials have scrambled to respond, hiring consultants to conduct their own air monitoring and holding public forums dominated by angry and frightened residents.

The Willowbrook facility is one of nine ethylene oxide sterilizers operated nationally by Sterigenics. The company has grown rapidly since it was bought for \$675 million in 2011 by GTCR, the private equity firm formed by former Gov. Bruce Rauner and a colleague during the late 1990s after they dissolved another firm with the same name.

Sterigenics is now owned by Sotera, a suburban Cleveland-based venture between GTCR and Warburg Pincus, another private equity firm that acquired a majority stake in 2015. Sotera has been in talks to sell the company for as much as \$5 billion, Reuters reported in September.

[BACK TO TOP](#)

**CBS Chicago**

**Matt Haller, 45, Is First Litigant To Pass Away After Filing A Lawsuit Against Sterigenics: 'To Think This Company Could Have Literally Been Behind My Death Is Shocking'**

<https://chicago.cbslocal.com/2019/03/22/sterigenics-ethylene-oxide-matt-haller-death/>

**Dave Savini**

**Friday, March 22, 2019**

CHICAGO (CBS) — He battled cancer and fought to get the word out about a dangerous chemical coming from a plant near his home. Matt Haller lost his fight against cancer, but before he died, he wanted to share a message with CBS 2's Dave Savini.

Matt and Savini first met in January.

When Savini learned Matt entered Hospice Care last week, he stopped by to say goodbye.

But Matt wanted to go on camera, to do one final interview about his fight and the community he loved.

He spent time with his cousin, reminiscing about what was — years of ski trips that had them flying high, especially Matt, who dominated the slopes, and just a year ago when Matt managed to make one more guys' trip to Utah even after starting chemo treatment for stomach cancer.

"The barrel is empty, and there's not much left," Matt said. "But I'm going to fight, and I'm going to fight, and I'm going to fight."

In pictures of Matt before cancer ravaged him, he is full of life and thinking about his future.

In pictures of Matt before cancer ravaged him, he is full of life and thinking about his future.

"I'm down to a hundred pounds," he told Savini. "I've lost almost a hundred pounds."

When Savini first met Matt in January, he was undergoing chemotherapy. He wanted to speak out because he was concerned his cancer may have been caused by ethylene oxide from the medical supply sterilization company, Sterigenics.

"To think this company could have literally been behind my death is shocking," he said. "It's utterly shocking."

Matt fought for more government oversight into ethylene oxide emissions while he struggled to live longer and create a few more memories with his wife, Colleen, and son, Cullen.

"My son is four years old, and you really wonder, is he going to remember me?" Matt said. "I'm not going to be able to teach him to play hockey. So much loss, you know, when you look forward, you

just see loss.”

Two months after that interview, he wanted to do one more final interview even though he knew it was hard to see him this way. Though his body was failing, his spirit was full, and his mind was clear.

He said nurses were just trying to keep him comfortable.

“Now it’s all about easing into, you know, the unknown,” he said.

Questions about Matt’s illness and links to ethylene oxide, in part, date back 35 years.

The CBS 2 Investigators obtained a 1984 letter written by the Illinois EPA. It warns the company’s predecessor, Griffith Laboratories, of cancer dangers associated with ethylene oxide, listing cancers of the pancreas, bladder, brain, central nervous system and stomach.

“Everything needs to be uncovered here. Everything needs to be uncovered,” Matt said.

He shared his story hoping someone would listen and investigate the cancer cases in his community, Willowbrook, where he lived for nine years.

“Well, my fight has become all about whistleblowers,” he said.

He wants more whistleblowers to come forward like two former Sterigenics employees, who spoke exclusively to CBS 2, claiming the EPA did not know the actual amount of ethylene oxide released by the company.

One of the former employees told CBS 2 he believes the company was sending way more out the stacks and vents and out the doors than was ever reported to the EPA. “Definitely,” he said.

“It’s hard because I worked there. It’s hard to sleep at night,” the other former employee said.

Matt said seeing the whistleblowers come forward “was like a dream come true.”

“I couldn’t be happier,” he said. “It’s what it’s all about for me now. Whistleblowers, whistleblowers, come forward. Tell your story. Tell us what you know, and let’s fight. Let’s fight this for the community. Please.”

Matt speaking out earlier this year prompted a third former Sterigenics worker to come forward.

“I feel bad like when I found out about the one who’s dying of cancer, and he’s leaving his four-year-old son. That hurt me the most,” Mike Morales said.

Morales spoke about gas leaks at the facility.

“The chambers would run different cycles,” he said. “They would leak gas a lot of times, I swear to

God.”

Morales speaking deeply touch Matt.

“Thank you for that whistleblower that came forward because you made a real difference,” Matt said.

He hopes more will come forward, too.

“God forbid if they’re doing what they say, what we understand they’re doing, and they’re poisoning this community, then they need to pay. And I don’t mean monetarily. People should be going to jail,” Matt said.

Last month, the state EPA put a seal order on the company, preventing it from using ethylene oxide.

“I was exuberant,” Matt said. “I couldn’t have been happier.”

As Savini and Matt said goodbye to each other, Matt wanted to remind Savini of others who are sick.

And as lawsuits have been filed by community members, he wanted to express his concern about ethylene oxide possibly causing cancers in the community.

He wanted to remember people like Katherine Howard, who has stomach cancer; Jana Conev and Jeanne Hochhalter, who have breast cancer; Petko Conev, who has bladder cancer; and Julian Glick, who has leukemia.

Matt wanted to push for answers to continue.

“They’re going to fight to open again, so we have to continue to fight,” Matt said of Sterigenics.

Sterigenics has denied claims made by the former workers and has said they operate well within regulatory limits.

Last Saturday, a day and a half after Matt and Savini said down together, Matt Haller lost his cancer battle.

This makes him the first litigant to pass away after filing a lawsuit against Sterigenics.

He was 45 years old.

A GoFundMe page has been created to support the Haller family.

[BACK TO TOP](#)

## **Inside EPA**

### **UCS, Harvard scientists criticize CASAC air pollution review shift**

<https://insideepa.com/daily-feed/ucs-harvard-scientists-criticize-casac-air-pollution-review-shift>

**Friday, March 22, 2019**

Two prominent air quality scientists are raising major concerns over a shift in how EPA's Clean Air Scientific Advisory Committee (CASAC) considers "causation" of health effects by pollution -- starting with a review of particulate matter (PM) emissions -- arguing it could lead to weaker air standards and other health protections.

In a March 21 article in the journal *Science*, Gretchen Goldman of the Union of Concerned Scientists, and Francesca Dominici of the Harvard School of Public Health, attack the new approach floated by CASAC Chairman Tony Cox. "Weakening the EPA's long-standing processes for assessing the health impacts of air pollutants could erode the agency's ability to obtain independent science advice on agency decisions on public health protections. In any case, this could ultimately lead to weakening of ambient air pollutant standards," they write.

Cox is an outspoken critic of EPA's longstanding method for determining when exposure to air pollution causes health effects, casting doubt on many of the agency's conclusions underpinning reviews of its national ambient air quality standards (NAAQS) such as the standards for PM.

In a March 7 draft letter, CASAC led by Cox attacked EPA staff's draft integrated science assessment (ISA) for PM, a key document that will inform EPA's decision on whether to change or leave unchanged the current NAAQS for fine particulate and the larger coarse PM. Cox and his fellow panelists on the seven-member CASAC will discuss the draft letter at their next meeting March 28.

The CASAC letter rejects longstanding scientific practice in weight-of-evidence analysis of health effects, Goldman and Dominici write, in favor of Cox's preferred methodology that renders it much more difficult to conclude that pollution actually causes disease.

"Rather than look at the weight of the evidence from studies across different fields and different study designs, members of CASAC are proposing in a draft letter that the EPA instead limit the studies that inform its causality determinations to those that can pass a specific narrow approach called manipulative causality," they say.

Cox argues that "the majority of current epidemiological studies considered by the EPA only provide evidence of an association (and not evidence of causation) between exposure to air pollution and health effects because, he falsely claims, they do not adjust for confounders (such as weather, demographic, or socioeconomic variables), and therefore, they are not proving manipulative causation," Goldman and Dominici say.

But "a requirement of manipulative causation fails to recognize the full depth and robustness of existing approaches in epidemiology, statistics, and causal inference and the degree to which they deal with confounding factors," they say.



Combined with EPA's new policy on science, which requires that all data underlying studies be publicly available, and that studies be reproducible, the effect of Cox's proposed shift in approach could lead to weaker air standards, the two scientists say.

Meanwhile, CASAC and EPA are already under fire from former committee members, environmentalists and Democrats, both because of Cox's controversial approach and because of EPA's decision to scrap specialized panels previously used to assist CASAC in NAAQS reviews. EPA dropped the panels in a drive to speed up the review process -- but this may backfire because of Cox's demand that EPA fundamentally alter its ISA.

[BACK TO TOP](#)

## **Bloomberg Environment**

### **EPA Releases Previously Health Data on Pigment**

<https://news.bloombergenvironment.com/environment-and-energy/epa-releases-previously-health-data-on-pigment>

**Pat Rizzuto**

**Friday, March 22, 2019**

- EPA releases health studies for pigment violet 29 used in paints, coatings
- Democrats say EPA can't withhold health information under toxics law

Previously confidential details on the health effects associated with exposure to a paint pigment were released by the EPA March 22 following pressure from Democratic legislators and environmental health advocacy groups.

The release did not change the Environmental Protection Agency's conclusions about pigment violet 29, which found that it presents no undue concern.

But the issue goes to the heart of the nation's primary chemicals law: how to balance company claims of confidentiality for trade secrets versus the public's right to know safety decisions.

Rep. Frank Pallone, Jr. (D-N.J.), chairman of the House Committee on Energy and Commerce, and Rep. Paul D. Tonko (D-N.Y.), chairman of that committee's Subcommittee on Environment and Climate Change, have repeatedly said the EPA violated the law by refusing to make health and safety data public, as required by the 2016 amendments to the Toxic Substances Control Act.

The legislators repeated those demands in a March 21 letter to EPA Administrator Andrew Wheeler. The lawmakers could not immediately be reached for comment on EPA's decision to release the health information.

### **Some Data Still 'Confidential'**

The EPA released on March 22 many—but not all—previously withheld details from 24 health and safety studies of pigment violet 29 (PV29). EPA posted some information on PV29's skin, eye, inhalation, and oral health impacts in test animals.

The reddish-maroon pigment is used to color plastics, ceramics, sporting goods, and other products.

Sun Chemical Corp. was the only U.S. facility that reported manufacturing PV29 (CAS No. 81-33-4) in 2012 and 2016, according to the agency's Chemical Data Reporting rule. In 2015—the last production year for which numbers are available—Sun manufactured 590,000 pounds of the colorant.

The EPA did not change the preliminary conclusion announced last November, that exposure to the chemical presents no undue concern.

#### Dropped Claims

The group of companies that make or use PV29—who originally claimed the EPA could not release the health and safety studies without violating confidential business information—have dropped most of those claims, the agency said.

The European branches of Sun Chemical and Clariant AG provided the EPA with toxicity and other chemical data originally submitted to European regulators.

A memo the agency released details some of the information made public, and what data remains confidential.

Chemical policy analysts at the nonprofit advocacy organization the Environmental Defense Fund could not be immediately reached for comment March 22.

EDF previously blogged about what it called an “illegal and hypocritical decision to deny the public access to health and safety studies.”

[BACK TO TOP](#)

#### **Bloomberg News**

##### **Wall Collapse at Houston Fire Site Prompts Take-Cover Alarm**

<https://www.bloomberg.com/news/articles/2019-03-22/wall-collapse-at-houston-fire-site-prompts-take-cover-alarm>

**Joe Carroll and Rachel Adams-Heard**

**Friday, March 22, 2019**

A wall holding back almost a million gallons of toxic, flammable liquids collapsed Friday at the site of a Houston-area chemical disaster.

People at nearby industrial sites and a state war memorial were warned to take cover. Workers at Intercontinental Terminals Co.'s storage facility in the suburb of Deer Park were in the process of pumping chemicals into another tank. Earlier, Brent Weber, the executive overseeing the recovery

work, told reporters the threat of a benzene release would be heightened during the process.

ITC said it's working to determine the precise contents of the spill, though a spokesman declined to say where the fluids were headed. The U.S. Coast Guard closed a portion of the nearby Houston Ship Channel, which is downhill from ITC's property. The channel is one of the busiest commercial shipping facilities in North America, connecting Houston's manufacturing and oil-refining nexus to Galveston Bay and the Gulf of Mexico.

Although the channel is a key maritime thoroughfare, it's not a source of drinking water for Houston or its suburbs.

Before the collapse, there were 20,000 barrels (840,000 gallons) of a refining byproduct called pygas left in one of tanks consumed in the four-day blaze. Another 40,000 barrels of chemicals lingered within the disaster zone, Weber said in a meeting with reporters about two hours before the collapse.

The U.S. Chemical Safety Board announced late Thursday it will be investigating the blaze. The Texas National Guard dispatched troops to assist local authorities with air monitoring.

On Friday, the lone monitor detecting benzene was on the northeast side of Deer Park, the working class suburb near the Houston Ship Channel that's home to ITC's tank farm. The U.S. Environmental Protection Agency, one of four entities conducting air tests, said its own monitors hadn't registered any signs of benzene on Friday. EPA representative Adam Adams said he couldn't explain the discrepancy.

— With assistance by Kevin Crowley, and David Wethe

[BACK TO TOP](#)



## **E&E News**

### **Residents fret about chemical plant fire, despite assurances**

<https://www.eenews.net/greenwire/stories/1060127951/search?keyword=epa>

**Friday, March 22, 2019**

Kristin Crump and her two kids put damp cloths over their mouths yesterday for the short walk from their suburban Houston front door to their car, defying an order to remain inside because of dangerous fumes coming from burned-out petrochemical tanks a couple of miles away.

For the second time in three days, they were heading to a relative's house, worried about what they've been breathing since a massive fire broke out Sunday at the Intercontinental Terminals Co. in Deer Park, Texas, and not believing officials' assurances that they were safe.

"I do not fully trust what they say," said Crump, whose husband later met up with her and the kids,

who are 6 and 13 years old. "I do believe what is in the air is very harmful and it can have long-term effects such as cancer and things like that later down the line. I don't think it's worth risking that for me or my kids to stay there and breathe in this stuff."

Authorities lifted yesterday's order to remain indoors after several hours, saying tests showed the elevated levels of benzene in the air had cleared. But that was little solace to residents who watched for three days as a giant plume of black smoke billowed from the plant. Authorities on Wednesday said they had finally extinguished the blaze.

The U.S. Chemical Safety Board will investigate the fire (see related story).

"It's pretty harrowing," said Jeff Fountain, a chemist who lives with his wife and three children about 4 miles from the plant.

"I work with benzene. ... Science has told us that it's a well-known carcinogen," he said yesterday, adding, "The plume is gone, but the benzene in the air is lingering."

Several government agencies will continue to monitor the air around the plant, where the tanks that caught fire contained components of gasoline and materials used in nail polish remover, glues and paint thinner. ITC said 11 of the 15 storage tanks in the area where the fire occurred were damaged.

Authorities haven't revealed the cause of the blaze. They said Wednesday that the benzene levels near the facility didn't pose a health concern, but they issued the shelter-in-place order early yesterday due to "reports of benzene or other volatile organic compounds" in Deer Park, which is about 15 miles southeast of Houston.

Harris County Judge Lina Hidalgo, who is the county's top administrator, said at a news conference that light winds had helped keep the vapors from spreading more broadly.

Dr. Umair Shah, who heads the county health agency, said there was only a minimal public health risk, but he cautioned that the elderly, pregnant women and other vulnerable groups should take precautions.

"The most important thing is that the levels that have been detected are still not high enough for the level of concern that people may be having," he said.

Intercontinental Terminals Co. spokeswoman Alice Richardson said yesterday that company officials believe winds shifted foam that had been sprayed over one of the tanks which burned in the fire, allowing benzene vapors to escape.

A unified command has been set up to coordinate the efforts of Deer Park city and Harris County workers, along with those of the Texas Commission on Environmental Quality, EPA and the Coast Guard. They are evaluating the environmental aftereffects on waterways surrounding ITC. The Texas National Guard's 6th Civil Support Team was assisting at the scene yesterday. — Juan A. Lozano and David Warren, Associated Press

[BACK TO TOP](#)

## E&E News

### Wis. retreats from legal attack on Obama mercury rule

<https://www.eenews.net/greenwire/stories/1060128045/search?keyword=epa>

Ellen M. Gilmer

Friday, March 22, 2019

Another key litigant is exiting the fight over the Obama EPA's limits on emissions of mercury and other hazardous pollutants from power plants.

Wisconsin yesterday moved to withdraw from a case in the U.S. Court of Appeals for the District of Columbia Circuit that challenges an Obama-era finding that regulating the pollutants from the electricity sector would not be too costly. EPA's conclusion supported its Mercury and Air Toxics Standards.

The Midwestern state was an early critic of EPA's approach but the second to recently back out of the case. Democratic Attorney General Josh Kaul took over for Republican Brad Schimel in January.

The MATS-related litigation has been on hold while the Trump administration decides what it wants to do with the regulation and its legal underpinnings. EPA is currently considering whether to scrap the rule's legal foundation and eliminate the consideration of "co-benefits," or indirect positives associated with incidental decreases of pollutants other than those targeted.

Michigan, the lead petitioner in the multistate challenge to the Obama plan, withdrew from the case in January. The state also had a change in political leadership in the new year when Democrat Dana Nessel replaced Republican Bill Schuette as attorney general (E&E News PM, Jan. 22).

[BACK TO TOP](#)

## E&E News

### Could PFAS concerns sway the Democratic presidential contest

<https://www.eenews.net/greenwire/stories/1060128057/search?keyword=epa>

Timothy Cama

Friday, March 22, 2019

The plight of communities with PFAS contamination in their drinking water is getting an attention boost from the 2020 presidential campaign.

Democrats in the crowded field of more than a dozen candidates are calling for more action to clean up per- and polyfluoroalkyl substance pollution, a key concern in some areas of New Hampshire,

which holds the first primary of the campaign season.

PFAS is providing a platform for hopefuls to slam President Trump's environmental agenda as they make their case to voters about who is the best person to take on Trump next year.

And while New Hampshire, whose primary comes just after the Iowa caucuses, isn't the only state to suffer from PFAS issues, it's helping candidates connect more closely with voters in the Granite State.

Sen. Kirsten Gillibrand (D-N.Y.) has taken the mantle on PFAS, going so far as to call for a complete ban on the family of thousands of man-made chemicals that are used in applications like firefighting foams and nonstick cookware. Environmental advocates call them "forever chemicals" because they can last years before breaking down.

"I think we have to ban the entire class of chemicals because they will be determined ... as carcinogens," Gillibrand said at a March 15 campaign event in Portsmouth, N.H., that was structured as a forum on water contamination problems, according to Foster's Daily Democrat, a Dover, N.H., newspaper.

"If the EPA turns a blind eye and is unwilling to do the right thing, then you'll have at least two more years when nothing is done. It's one of the reasons why we must defeat President Trump," Gillibrand said.

"He is a toxic president to America, that is a fact," said the senator. "He does not care."

While the White House's fiscal 2020 budget proposal calls for new money to communities affected by PFAS, it would cut research dollars (E&E News PM, March 18).

The issue is of particular importance to Gillibrand, who used to represent an upstate New York Hudson Valley district while in the House.

Hoosick Falls, N.Y., has grappled in recent years with drinking water contamination from perfluorooctanoic acid, or PFOA, a substance in the PFAS family that is a suspected carcinogen.

The pollution has been linked to a plant owned by Saint-Gobain Performance Plastics and formerly operated by a predecessor corporation of Honeywell International.

'Pretty niche issue'

Gillibrand's comments came weeks after then-acting EPA head Andrew Wheeler released an action plan for PFAS, which included steps to help clean up contamination and, by the end of the year, make an official determination that would lead to regulations limiting allowable drinking water concentrations of two key PFAS chemicals.

Wheeler's announcement, however, angered Democrats and health advocates, who argued the plan does not take action quickly enough.



As an environmental problem, PFAS doesn't pose the same national concerns as something like climate change. But its impact is being felt in places like Pennsylvania, West Virginia and Michigan.

In New Hampshire, focus has been on the Seacoast area, where PFAS pollution has been found or suspected in Portsmouth, Merrimack, Greenland and elsewhere.

David Konisky, an environmental policy professor at Indiana University Bloomington, said PFAS could get much more attention in early primary states like New Hampshire and Michigan.

"PFAS are still a pretty niche issue, so it's hard to imagine them emerging as part of a national political discourse in a presidential election. But that said, in particular states as part of the primary process, I could very easily see candidates trying to use the issue to position themselves with voters in states where it's already been in the headlines," he said.

On the other hand, if candidates are looking for policy issues that would help them stand out from the rest of the field, they might not want to dwell on PFAS. Other environmental issues, like climate change, could provide for more differentiation, Konisky said.

"I'm not sure that it would separate them from other candidates, because I imagine they would all take similar stances on the need for the EPA to do more, and for the federal government to provide resources for cleanup of contaminated sites."

The idea of wide-ranging policies to ban PFAS alarms the chemical industry. The American Chemistry Council is open to certain standards, particularly on older PFAS compounds that have proved harmful, but argues that painting the whole class with broad brushstrokes is wrong.

"PFAS is a diverse family of chemistries that have differing characteristics, formulations, intended uses, and environmental and health profiles," Rob Simon, vice president for chemical products and technology at the ACC, said in a statement.

"Because of these significant differences, it is inappropriate to pass one-size-fits-all regulations of PFAS as a class, which is an approach that has been rejected repeatedly by U.S. agencies and other international regulatory bodies over the years," he said.

Lobbying on PFAS has increased significantly since the issue gained prominence on Capitol Hill, with lawmakers pushing bills and demands to the administration (E&E Daily, Feb. 5).

How the candidates stack up

Many presidential hopefuls are indeed targeting the entire category of chemicals. Former Maryland Rep. John Delaney said he visited the Coakley Landfill in New Hampshire in February.

"I toured the Coakley Landfill in Greenland which is suspected of high levels of PFAS and am aware of how concerned people are on the Seacoast about water contamination," he said in a statement. "I think that it is unacceptable that the Trump EPA is dragging their feet on this."

In addition to Gillibrand's call for a complete ban on PFAS, she signed on to a bipartisan Senate letter Feb. 1 with 19 colleagues calling on EPA to set hard limits on concentrations of PFOA and perfluorooctanesulfonic acid, or PFOS.

Two more of those signatories are now running for the Democratic nomination to be president: Sens. Bernie Sanders (I-Vt.) and Elizabeth Warren (D-Mass.).

Those three senators also signed on to a May demand that the Trump administration release federal research on PFAS consumption limits, following a report that administration officials had tried to hide it.

Sanders is the lead sponsor of the "Water Affordability, Transparency, Equity and Reliability Act," S. 611, which he introduced in February. It is meant as a comprehensive drinking water plan, including provisions to help water utilities clean up PFAS and assist householders served by them.

Warren's campaign pointed to legislative amendments she's sponsored that would have mandated a study and a federal register on firefighters' exposure to PFAS.

She also criticized David Dunlap, a former Koch Industries Inc. official now working in a senior research position, for his alleged role in EPA's PFAS action plan in a letter to Wheeler.

Sen. Kamala Harris (D-Calif.) has criticized the Trump administration on Twitter for its actions on PFAS.

"Everyone has a fundamental right to drink clean water. The EPA's decision to delay setting standards for PFAS, toxic chemicals in drinking water that can have devastating impacts on human health, is completely unacceptable," she tweeted after EPA released its action plan.

Gillibrand, Harris, Warren and Sen. Cory Booker (D-N.J.) are all among the 30 co-sponsors of Sen. Tom Carper's (D-Del.) "PFAS Action Act," S. 638, which would mandate that EPA declare all PFAS chemicals to be hazardous, thus allowing contamination areas to be declared Superfund sites.

Booker wants PFAS banned from firefighting foams and consumer products immediately, said spokeswoman Sabrina Singh. He also endorses a drinking water standard and a hazardous substance designation for the entire class, to enable Superfund cleanups.

"EPA's failure to regulate PFAS chemicals is putting the health of millions of Americans at risk. Unfortunately, this is just another example of the Trump EPA failing to protect public health," Singh said.

Former Housing and Urban Development Secretary Julian Castro largely agreed with his Democratic rivals, saying in a statement to E&E News that the federal government "must set strict standards for the presence of carcinogenic materials, including putting forward enforceable maximum contaminant levels and allocating federal resources to combat unacceptable levels."

Castro also said the Trump administration "clearly does not prioritize the health and safety of American citizens, as proven by their actions and budget."

Washington Gov. Jay Inslee (D) has taken action on the state level to stop PFAS contamination. He signed a bill last year banning certain PFAS chemicals from being added to firefighting foam, and another to ban some PFAS compounds from food packaging.

[BACK TO TOP](#)

## **Inside EPA**

### **Air Force Seeks To Preserve Federal Test Case On State's PFAS Enforcement**

<https://insideepa.com/daily-news/air-force-seeks-preserve-federal-test-case-states-pfas-enforcement>

**Suzanne Yohannan**

**Friday, March 22, 2019**

The Air Force is urging a federal judge to reject calls from New Mexico officials to remove its challenge to a waste permit governing per- and polyfluoroalkyl substances (PFAS) to a state court, an effort aimed at preserving a suit that could become a test case on federal agencies' attempts to limit state regulation of PFAS in the absence of EPA standards.

In a March 14 brief filed in the U.S. District Court for the District of New Mexico, the federal government in *United States v. New Mexico Environment Department (NMED)* says the federal district court has jurisdiction to oversee the litigation and should not refrain from exercising that jurisdiction.

It charges that legal doctrines the state had cited to justify its removal motion governing deferrals to state court do not apply in this case.

In the litigation, the Air Force is challenging the renewal of a hazardous waste disposal permit that NMED issued to Cannon Air Force Base, located in Curry County, NM, in December.

While the Air Force is challenging the definition of hazardous waste in that permit, it does not specify how the definition exceeds the Resource Conservation & Recovery Act's (RCRA) sovereign immunity waiver.

But the state permit, which governs contamination investigation and remediation at the base, defines hazardous waste as including contaminants such as PFAS, munitions constituents, perchlorate and other chemicals.

The state's permit -- and the Air Force's challenge -- underscores the difficulties state regulators face as they seek to address PFAS contamination in the absence of an EPA standard. While several states have begun to set enforceable regulatory limits, EPA has not, resulting in a patchwork of

requirements.

Moreover, the military services face significant environmental cleanup liability at their bases for PFAS as the chemicals have been used in fire fighting foam they have used in training or fighting fires at military properties across the country. While New Mexico officials have battled the Air Force over PFAS contamination stemming from two bases, in Georgia the Air Force has also declined to address off-site contamination from three bases in part because neither EPA nor the state regulates the substances.

Marten Law policy adviser Nathan Frey and senior associate Jennifer Hammitt argue in a post last month that the pending litigation may become a test case on federal agencies' attempts to limit state regulation on PFAS. The case "may provide additional insight into the viability of state regulation in the absence of federal rules."

The United States filed the challenge Jan. 17, asking the federal court for "declaratory and injunctive relief alleging that certain terms of the Permit exceed NMED's authority," the March 14 brief says.

The federal government simultaneously filed a protective notice of appeal to challenge the permit in state court, but the United States says it will seek to stay state proceedings pending resolution of the federal litigation.

New Mexico officials though, in response, last month asked that the federal district court dismiss the case, saying the state court should preside over it. The state asked the federal court to abstain from exercising its jurisdiction and defer to the New Mexico Court of Appeals.

The state also asked for a "more definite statement of the alleged inconsistencies between the permit, RCRA and the [state Hazardous Waste Act (HWA)]."

'Sufficient Factual Detail'

But in its March brief, the United States rejects NMED's request that the court dismiss the complaint "for failing to state a claim upon which relief can be granted, and alternatively for a more definite statement," according to the U.S. brief.

The government says it "included sufficient factual detail to allege a cause of action challenging the definition of hazardous waste in the final permit, and the complaint is sufficiently detailed to allow the defendants to respond."

Further, it says, "NMED was able to identify in its motion that the United States alleges that the definition of hazardous waste in the issued Permit . . . is inconsistent with the HWA and its implementing regulations and so exceeds the scope of RCRA's sovereign immunity waiver."

It continues, "The specific arguments regarding how the definition of hazardous waste in the Permit is unlawful and exceed RCRA's sovereign immunity waiver are legal arguments, and NMED will have an opportunity to respond to those arguments later in this litigation."

The U.S. government also says that none of the abstention doctrines -- based on the cases *Younger v. Harris*, *Railroad Commission of Texas v. Pullman Co.* and *Colorado River Water Conservation District v. United States* -- that the state cited in its motion is applicable to this challenge.

It points to *Sprint Communications, Inc. v. Jacobs*, a 2013 Supreme Court ruling that held *Younger* only applies to ongoing state criminal cases, civil enforcement proceedings akin to criminal proceedings and civil cases that implicate a state court's ability to conduct its judicial functions. The federal government notes that this does not fit either of the first two types of cases, and the third factor does not apply because the Air Force is not asking the district court to enjoin or address an ongoing state proceeding.

"Under governing Supreme Court precedent, *Younger* abstention is thus inappropriate here," the United States says.

It also says NMED's arguments that the federal court must abstain under *Younger* for other reasons - such as if the issue involves significant state interests -- ignore the limits that Sprint put on *Younger* and that have been recognized by the U.S. Court of Appeals for the 10th Circuit.

The United States says the state also fails to specify how the Pullman and Colorado River abstention doctrines apply, noting that the former does not apply as there is no constitutional challenge to a state law here. Further, this case "does not implicate the issues of judicial economy relevant to Colorado River abstention," it says.

[BACK TO TOP](#)

## **Houston Public Media**

### **EPA Says Situation Becoming Stable In Deer Park, ITC Warns About Potential Benzene Emissions During Cleanup**

<https://www.houstonpublicmedia.org/articles/news/2019/03/22/326225/epa-says-situation-becoming-stable-in-deer-park-itc-warns-about-potential-benzene-emissions-during-cleanup/>

**Alvaro 'Al' Ortiz & Florian Martin**

**Friday, March 22, 2019**

The Environmental Protection Agency (EPA) said on Friday the situation in Deer Park and its vicinity is becoming stable after a three-day massive fire at a petrochemical facility. No benzene emissions have been recorded since 12 a.m., but the company that owns the facility warned there could be emissions throughout the day due to the cleanup of the tanks.

Intercontinental Terminals Company (ITC) held a news conference at 10 a.m. EPA representative Adam Adams said the three benzene readings the agency recorded happened on Thursday. "Outside of that, there's been no detections at all for benzene or volatile organic compounds above 1 part per million," he said.

Adams also talked about the air quality monitoring from ITC. "I've seen their data since midnight last night," he said, "they've had no benzene detections at all, so we're moving in the right direction and we're continuing to see a stable situation. It's becoming more stable as we go."

Florian Martin

@Florian\_News887

EPA on-site coordinator: no benzene detected in Deer Park #DeerParkfire @HoustonPubMedia

11:05 AM - Mar 22, 2019

The EPA is using its Trace Atmospheric Gas Analyzer (TAGA) bus to monitor the air quality. About 250 locations have been monitored. The agency's Airborne Spectral Photometric Environmental Collection Technology (ASPECT) plane is also providing air monitoring flights over the area.

The EPA is also sampling the water and Adams said he hopes to get a first set of results by the end of Friday.

ITC Executive Brent Weber is the company's incident commander. He said at the news conference there are approximately 20,000 barrels of product that have to be cleaned up and estimated the process could take 8-12 hours "depending on the actual pump rate that we get."

Weber acknowledged there is a possibility of vapors being released during the pumping, because a layer of foam on top of the chemicals could be moved around. The foam helps to suppress the vapors, including the benzene, and Weber said there is an elevated risk of benzene emissions during the cleanup process.

Florian Martin

@Florian\_News887

#DeerParkfire incident commander: benzene readings can be expected in and adjacent site during continued clean-up; DP mayor: more shelters-in-place likely @HoustonPubMedia

11:22 AM - Mar 22, 2019

Deer Park Mayor Jerry Mouton said it is possible the city will issue another shelter in place order but added "there's been no scenario that's occurred at any point in time where we've considered evacuating anybody."

The following school districts canceled classes on Friday out of precaution:

Channelview

Deer Park

Galena Park

Goose Creek

La Porte

Pasadena

Sheldon

Several KIPP campuses, as well as San Jacinto College and Lee College, also canceled classes.



The Texas Commission on Environmental Quality is also monitoring air quality, in addition to Harris County. The agency has a website with updated information.

Texas Commission on Environmental Quality  
@TCEQ

TCEQ staff are briefed in the Houston Region Air Work Room before heading out on a monitoring mission. The Air Work Room is where air monitoring activities are planned and monitored 24 hours a day.

11:17 AM - Mar 22, 2019

The U.S. Chemical Safety Board will investigate the fire. The agency said in a statement that investigators will start interviews next week and plan to be on site for several days to document the scene and collect evidence.

[BACK TO TOP](#)

## **Bloomberg Environment**

### **EPA, Sherwin-Williams Seek Approval of \$1.4M Cleanup Accord**

<https://news.bloombergenvironment.com/environment-and-energy/epa-sherwin-williams-seek-approval-of-1-4m-cleanup-accord>

**Peter Hayes**

**Friday, March 22, 2019**

- Contamination from defunct manufacturing site
- EPA spent over \$2 million addressing arsenic, lead

Sherwin-Williams Co. will reimburse the EPA \$1.4 million in cleanup costs to resolve its liability for three New Jersey Superfund sites under a consent decree slated for court approval April 15.

The sites, located in Gibbsboro, N.J., are the Sherwin-Williams/Hilliards Creek Superfund Site, the United States Avenue Burn Superfund Site, and the Route 561 Dump Site.

The Environmental Protection Agency filed a motion to approve the consent agreement March 21.

The agreement also calls for the company to design and implement the clean up of soils and sediments at a section of the Burn site.

Sherwin-Williams operated a paint and varnish manufacturing facility at the Sherwin-Williams/Hilliards Creek site beginning in 1851, which resulted in releases and threatened releases of hazardous substances at all three sites, the government says.

The EPA asserts it has spent more than \$2 million remediating lead, arsenic, and other waste from the former plant.

The case is United States v. The Sherwin-Williams Co., D.N.J., No. 19-cv-019, 3/21/19.

[BACK TO TOP](#)

## **Inside EPA**

### **States Bolster Standing Claims In Suit Over EPA Landfill Methane Rule**

<https://insideepa.com/daily-news/states-bolster-standing-claims-suit-over-epa-landfill-methane-rule>

**Dawn Reeves**

**Friday, March 22, 2019**

States challenging EPA's delay in implementing methane standards for existing landfills are bolstering their arguments for why they have standing to sue after the agency launched a broad challenge to their standing that sought to differentiate the challenge from the landmark Supreme Court ruling granting states "special solicitude" in climate suits.

In addition, the Democratic-led state coalition is accusing EPA of seeking to dismiss the suit for procedural reasons after conceding it violated its Clean Air Act regulatory obligations.

California and allied states, along with the Environmental Defense Fund, say in a March 19 filing in State of California, et al., v. EPA, et al., in U.S. District Court for the Northern District of California that they have standing to sue because they are being harmed by landfills' emissions of methane, the potent greenhouse gas, as well as non-GHG emissions from the facilities including volatile organic compounds (VOCs) and hazardous air pollutants (HAPs).

They also argue that EPA, after conceding it violated its statutory obligations "to protect Americans' health and welfare from landfill pollution . . . again attempts to avoid them -- this time by contesting Plaintiffs' (including eight sovereign States') standing. That defense lacks merit. Plaintiffs plainly have Article III standing" to bring the suit to enforce EPA's "conceded obligations."

The filing responds to EPA's Feb. 19 motion in support of summary judgment, arguing the states lack standing "because they have not met their burden of demonstrating that their alleged climate-related injuries are fairly traceable to EPA's inaction with respect" to approving state implementation plans and issuing federal plans under the 2016 rule's deadlines.

Instead, EPA argued that the states in this case were not entitled to the "special solicitude" the high court found states have when it comes to climate injuries in its landmark 2007 ruling in Massachusetts v. EPA, which held the agency has authority to regulate GHGs under the air law as a pollutant.

States and environmentalist are seeking to force EPA to implement an Obama-era rule to limit the potent GHG methane at existing solid waste landfills. They are urging the court to require the agency

to meet extremely tight deadlines because the rule's original deadlines have long passed.

In their Jan. 22 motion for summary judgment, the plaintiffs cited Massachusetts as specifically recognizing states' standing to sue in cases involving harm to their quasi-sovereign interests. They said the "special solicitude" holding strengthens their conclusion they have standing, which included significant evidence that GHGs harm the states and their citizens, and that EPA's refusal to implement the landfill rule contributes to those injuries.

But EPA then disputed that "attenuated line of causation, alleging that implementation of the Emission Guidelines will reduce methane emissions, that methane is a greenhouse gas, and that greenhouse gases cause a variety of climate-related injuries to their quasi-sovereign interests."

#### 'Unraveling' EPA Claim

In their new reply, the states call EPA's line of causation claim "narrow and unraveling. The agency does not, and cannot, deny that [GHGs] cause climate change or that climate change is causing the harms identified by the states," citing Massachusetts, as well as the Trump administration's National Climate Assessment, released in November.

"Nor does EPA dispute that there is a causal link between the agency inaction challenged in this lawsuit and a significant increase in [GHGs]," the filing adds, saying the agency "solely and inappropriately" relies on a 2013 ruling by the U.S. Court of Appeals for the 9th Circuit, *Washington Environment Council v. Bellon* "to assert that the agency's inaction is not a significant enough cause because the quantity of [GHGs] at issue" -- which is equivalent to 7.3 million metric tons of carbon dioxide -- will not "meaningful[ly] impact the States."

They say this is legally and factually wrong, and that EPA cannot ignore the "special solicitude" granted to states by the high court.

In addition to winning standing based on their methane injuries, the state say stress they also have standing "on the basis of more localized harms attributable to [VOCs and HAPs]."

EPA disputes this basis for standing solely by citing a footnote from a 1982 high court case, *Alfred L. Snapp & Son, Inc. v. Puerto Rico*, the states say is both nonbinding dicta and incorrect. They argue those emissions harm their citizens' health and the states more broadly by spurring increased costs to their health care systems and ultimately to their treasuries.

"By failing to implement the Emission Guidelines, EPA is forgoing reductions of 1,810 megagrams per year of VOCs and HAPs, harming citizens who live near landfills or in ozone nonattainment areas including increased risk of respiratory and cardiovascular disease, cancer and death. The states are authorized to take action against EPA on their citizens' behalf," the brief says.

The states ask the court to order EPA to implement the rule by responding to already-submitted plans within 30 days, promulgating a federal plan within five months, and responding to future state plan submissions within 60 days.

EPA is also in the process of finalizing a rulemaking to significantly extend the deadlines in the Obama-era rule. It had sought dismissal on those grounds, but Judge Haywood Gilliam in December rejected that argument and allowed the case to proceed.

Gilliam has scheduled an April 25 hearing on the parties' cross motions for summary judgement.

[BACK TO TOP](#)

## **Montana Standard**

### **Butte to have consent decree by August, says EPA**

[https://mtstandard.com/news/local/butte-to-have-consent-decree-by-august-says-epa/article\\_5088d076-a2a6-51ee-8a2f-70bb00c6668d.html](https://mtstandard.com/news/local/butte-to-have-consent-decree-by-august-says-epa/article_5088d076-a2a6-51ee-8a2f-70bb00c6668d.html)

**Susan Dunlap**

**March 21, 2019**

By mid-August, the Butte Hill will have a signed consent decree in place, if everything goes as planned, say officials.

That was the message Doug Benevento gave during a goodbye meeting with stakeholders at the Butte-Silver Bow Archives Thursday morning. About 25 people — mostly local activists, county staff, and Atlantic Richfield Company employees — attended.

The EPA will start the clock on March 29, the outgoing regional administrator said. That alerts the court that the EPA will be delivering the legal document called a consent decree that will enable Atlantic Richfield to finish the Butte Hill cleanup.

It gives the EPA 135 days to deliver.

“That doesn’t mean that if we go to day 136 it all falls apart,” Benevento said. “But we have to explain to the court if it’s not done.”

Once the cleanup is complete, Atlantic Richfield will not likely spend more money than the company expected to pay out 13 years ago when the EPA laid out the damage done by more than 100 years of mining and smelting damage in the record of decision.

This meeting was Benevento’s last appearance in the Mining City as region 8 administrator. He said he expects to return to introduce his replacement, which could possibly happen this summer. In the meantime, Betsy Smidinger and Martin Hestmark, both assistant regional administrators, will be in charge of Region 8 during the interim.

During the meeting, Ed Siminoch, a member of the Restore Our Creek Coalition, joked that he wasn’t taking Benevento’s number out of his cell phone.

Benevento has won hearts in Butte for being so approachable and involved in the Butte Hill process of getting to a consent decree. More than one person at the meeting spoke of how much he has done for the Mining City.

"You're an example to the whole country," said Mick Ringsak, a longtime Republican leader and himself a former regional administrator — of the Small Business Administration.

Benevento will remain in Denver when he assumes his new post on April 1 as senior counselor for regional management and state affairs. He will oversee all the regional administrators and will answer directly to Andrew Wheeler, the new EPA top official.

Benevento's tenure, which began in October 2017, has been free of any ethics charges in an administration that has been marked by them.

Late last year, the EPA's southeast region administrator was indicted by an Alabama grand jury on violations of state ethics laws. Former EPA boss Scott Pruitt left last year under a long list of ethics complaints. Albert "Kell" Kelly, senior adviser, left after scrutiny of problems he faced while running a bank prior to joining the EPA.

When asked if he would help to change this state of affairs, Benevento said he disagreed with the premise of the question and said, "We have a great group of region administrators doing a great job."

Benevento said he expects to still get briefings in his new role on where the consent decree process and the cleanup are going.

He said one of the things he learned from working on the Butte Hill site is that "deadlines are important, and having a deadline, you have to be willing to act on it. It has to mean something."

The Restore Our Creek Coalition gave Benevento a plaque to commemorate his time directly overseeing the Butte Hill cleanup.

"He has done more in the year and a half than anyone has before, and the level of commitment he showed is an example of how the agencies should work with the community," said Jocelyn Dodge, Restore Our Creek Coalition member.

Benevento also held a public meeting in Anaconda Thursday evening to discuss the Smelter City's consent decree process.

[BACK TO TOP](#)



## **Judge tosses challenge to advisory panel membership policy**

<https://www.eenews.net/greenwire/2019/03/22/stories/1060128065>

**Sean Reilly**

**Friday, March 22, 2019**

For the second time this year, a federal judge has squelched a legal challenge to EPA's contentious membership policy for its scientific advisory committees.

In a decision issued late yesterday, senior U.S. District Judge William Pauley threw out a lawsuit filed by the Natural Resources Defense Council on the grounds that the environmental group lacked the legal standing to contest EPA's ban on service by agency grant recipients.

In his decision, Pauley, based in the Southern District of New York, acknowledged the ban's potentially far-reaching implications. "Whatever the merits of these challenges, however, this court's determination is narrow — only that this plaintiff has not demonstrated that it is the proper party to challenge the agency action."

Pauley's decision comes a little more than a month after a federal judge in Washington, D.C., dismissed a separate lawsuit brought by Physicians for Social Responsibility and former committee members (E&E News PM, Feb. 12). While a third suit is pending in federal court in Massachusetts, the odds are increasing that the EPA policy will endure at least through the end of President Trump's current term in January 2021.

NRDC now has until late May to decide whether to appeal. "We continue to believe that there are serious problems with the actions taken with respect to EPA's science advisory committees, and we are considering our next steps," Jon Devine, director of federal water policy in the NRDC's nature program, said in an emailed statement this morning. EPA press staffers did not reply to an emailed request for comment.

Under the directive imposed by then-EPA Administrator Scott Pruitt in October 2017, active EPA grant recipients are generally barred from serving on any of the agency's 22 federal advisory committees. The policy also set loose goals for promoting membership turnover and representation from all parts of the country.

As E&E News reported last fall, EPA had by that point not consistently enforced the ban on service by grant recipients (Greenwire, Sept. 21, 2018). But Pruitt and his successor, Andrew Wheeler, have used it to help recast two key panels — the Clean Air Scientific Advisory Committee and the Science Advisory Board — with their own appointees.

As grounds for the prohibition, Pruitt had said it was needed to ensure advisory committee members' "objectivity" when weighing agency policies. Critics noted, however, that he evinced no such concerns about members' independence from businesses with stakes in EPA decisions.

In its lawsuit, filed three months after Pruitt announced the new policy, NRDC alleged that 30 of the Science Advisory Board's 44 members had "some affiliation with regulated industries." Backing the

environmental group were California and nine other Democratic-leaning states. In a friend-of-court brief filed last year, they noted that Pruitt exempted employees of state agencies from the ban but added that researchers at state universities had "either been removed from service on EPA advisory committees or have been compelled to relinquish their grants."

EPA attorneys argued that the NRDC lacked the standing to challenge the policy, meaning the group had failed to show that it or its members had suffered an injury that could be addressed through court action.

In its filings, NRDC countered that some members faced the loss of professional opportunities because they either could not pursue EPA grants or would be barred from serving on advisory committees; the group also said that Pruitt's directive was "arbitrary and capricious because it creates a broad prohibition with no support or reasoning to justify the exclusion."

In yesterday's decision, Pauley focused on the bedrock test of standing. Ultimately, he wrote, the group had failed to show that any possible harm to its members was sufficiently "imminent" to meet that test.

Citing a ruling in a separate suit, Pauley wrote: "In this court's view, these injuries to the NRDC's members are more akin to those in cases where a supposedly potential bidder had 'no concrete plans' or 'no specific project.'"

The third challenge to the EPA membership policy was also brought early last year by the Union of Concerned Scientists and a now-former member of the Clean Air Scientific Advisory Committee in U.S. District Court for the District of Massachusetts. EPA lawyers have raised the standing issue there as well in seeking to have the suit dismissed. As of this morning, Judge F. Dennis Saylor had not ruled, online court records indicate.

[BACK TO TOP](#)

## **E&E News**

### **EPA proposes New Source Review accounting change**

<https://www.eenews.net/eenewspm/stories/1060128085/search?keyword=epa>

**Sean Reilly**

**Friday, March 22, 2019**

EPA, after an ad hoc attempt to rework one facet of the New Source Review permitting program quickly ran into a lawsuit last year, now appears to be pursuing the same objective through a formal rulemaking.

Yesterday, the agency advanced a proposed rule on the theme of "project emissions accounting" to the White House Office of Information and Regulatory Affairs for a standard review, according to a government website.

According to an accompanying synopsis, the proposal would condense the process for predicting emissions increases from a plant expansion or other significant changes at factories and other industrial pollution sources.

Those forecasts are critical to gauging whether such changes amount to a "major modification" that would warrant a New Source Review pre-construction permit accompanied by pollution control requirements.

While EPA has not released the text of the proposed rule, then-Administrator Scott Pruitt similarly sought to compress the forecasting process in a memo issued last March (E&E News PM, March 13, 2018).

Under a two-step process used up to then, companies had to first calculate whether a particular project would lead to a significant emissions increase. The second step then entailed determining whether the project would still lead to a noteworthy pollution boost, once emissions increases or decreases related to other factors were accounted for. Pruitt's memo allowed firms to consider both potential pollution increases and decreases at that first step.

While industry trade groups hailed the changes as a useful streamlining, environmental groups said it could lead to more pollution.

Last May, the Environmental Defense Fund and two other organizations challenged the change in a lawsuit filed with the U.S. Court of Appeals for the District of Columbia Circuit. In their suit, they also questioned whether EPA had violated the Administrative Procedure Act by failing to give the public advance notice and the chance to comment on the change (Greenwire, June 5, 2018).

In July, however, the three groups asked to put the litigation on hold, saying in a joint motion that EPA planned to propose a formal rule that would cover "the same subject matter as that addressed" by Pruitt's memo.

In a January status report, EPA told the court that it was still working on the proposal. The agency's latest roundup of planned rulemakings does not say when officials there hope to put a final regulation in place.

[BACK TO TOP](#)

## **Inside EPA**

### **EPA 'Lean' Office Chief Leaving But Contentious Efficiency Plan Continues**

<https://insideepa.com/daily-news/epa-lean-office-chief-leaving-contentious-efficiency-plan-continues>

**Dave Reynolds**

**Friday, March 22, 2019**



Serena McIlwain, director of the EPA Office of Continuous Improvement (OCI) that aims to streamline agency operations, is leaving for a state government job after less than a year in the position, but the Trump administration's contentious plan to use "Lean" techniques and other steps to improve EPA's operation efficiency continues.

In a March 8 letter to EPA Chief of Operations and Acting Deputy Administrator Henry Darwin, McIlwain says she will depart March 30 after four and a half years at EPA. She has led OCI since May when former Administrator Scott Pruitt created that office. Prior to leading OCI, McIlwain was an assistant administrator in Region 9, which covers several Pacific Coast states.

"Thank you for allowing me to be a part of your amazing team and making your vision of [Lean] a reality for EPA," McIlwain writes, saying she is joining an unnamed state government agency as a political appointee. "Wishing all the best for EPA, the esteemed Political Team of EPA, and the intelligent and loyal career employees of the agency."

OCI is located within the Office of Administrator and it seeks to implement Lean management -- a set of principles and methods used to help organizations identify and eliminate waste in their processes. Broadly implementing Lean at EPA is one of Darwin's top priorities since joining the Trump administration.

Agency union officials have pushed back on the effort, fearing that it is an attempt to justify eliminating jobs. In August 2017, when Darwin announced the plan, a since-retired union chief criticized it. "I can only imagine that 'Lean' stands for 'Less Employees Are Needed,'" John O' Grady, then president of the American Federation of Government Employee's Council 238 that represents many EPA employees, said at the time.

Last May, Pruitt announced the creation of OCI, and McIlwain as its director, saying that while EPA has used Lean management tools in the past, OCI would lead an effort to implement Lean in a more systematic way.

At the time, EPA set a goal of streamlining 80 percent of the agency's work processes by Sept. 30, 2020.

Although McIlwain is leaving the agency, it appears her departure will not set back the efforts to implement Lean. Darwin told Inside EPA in an interview last month that EPA is roughly halfway through training staff at its regional offices on Lean business techniques.

In the Feb. 6 interview, Darwin said the agency has trained staff at roughly half of its regional offices on LEAN to identify and improve inefficient processes. EPA began the training regimen last spring in Region 7 and announced a goal of conducting similar trainings at 80 percent of the agency in two years.

Darwin also has said he travels frequently to regional offices to evaluate process improvements.

## Unions' Concerns

The Trump administration's effort to streamline agency processes, led by Darwin and OCI, has drawn skepticism from the agency's unions, as well as environmentalists who fear it distracts from EPA's core work on environmental protection.

Most recently, Nate James, of the American Federation of Government Employee's Local 3331, a union chapter that represents some EPA headquarters employees, told Inside EPA that he has heard only introductory discussion of Lean implementation and has not received complaints from his membership.

But James also said that he believes that an effort, such as Lean, that will affect how employees will do their work should be discussed with the union, but that there has not been any discussion with management on Lean implementation, at least not with the headquarters employees that he represents.

"I haven't heard anything more than introductory conversation," says James of the implementation of Lean management techniques at headquarters. "If it has been implemented, it didn't come through this office for any review or opportunity to negotiate on it," he said.

Other union officials have raised concerns about the potential that EPA could use Lean management to streamline operations and justify staffing reductions.

When Pruitt was administrator, he said he wanted to significantly reduce agency staffing levels, defending efforts to cut the agency's workforce by 50 percent.

In a May statement announcing OCI's formation from existing resources, Pruitt said that through Lean "all parts of EPA will set ambitious and achievable targets for their work, measure their results, and improve their processes to bridge gaps between targets and results."

The statement said that it has already used Lean to establish monthly tracking of more than 400 performance metrics for the work of EPA program and regional offices, implemented measures for speeding core functions like issuing permits, and started monthly business reviews for all agency offices.

[BACK TO TOP](#)

## E&E News

### Green groups sue EPA over lack of spill regs

<https://www.eenews.net/greenwire/stories/1060128033/search?keyword=epa>

Courtney Columbus

Friday, March 22, 2019

The Natural Resources Defense Council and other environmental groups sued EPA yesterday over its

failure to issue regulations on chemical facilities' plans for spills of hazardous substances.

In 1990, the amended Clean Water Act required EPA to issue regulations by August 1992 that would force the most dangerous chemical facilities to plan for worst-case scenario spills of hazardous substances and work to prevent those spills from happening, the complaint states, and EPA hasn't yet issued those regulations.

Chemical facility workers and the people who live closest to these facilities face the highest risk, with communities that are mostly low-income and made up of people of color bearing a disproportionate burden, the suit states.

"For over 25 years, EPA has abdicated its responsibility under the law to protect communities that live near aboveground storage tanks brimming with harmful chemicals. These communities live with the constant risk of experiencing catastrophic, toxic chemical spills in their own backyards. This lawsuit seeks to put critical protections in place once and for all," NRDC attorney Kaitlin Morrison said in a statement.

The complaint cites spills of chemicals such as benzene and butadiene during Hurricane Harvey that led to hospitalization of emergency responders as examples of the need to prevent and address these types of incidents.

EPA spokeswoman Maggie Sauerhage said the agency doesn't comment on pending litigation.

[BACK TO TOP](#)

## **Inside EPA**

### **California Wastewater Utilities Appeal Suit Over CWA Permit Test Method**

<https://insideepa.com/daily-news/california-wastewater-utilities-appeal-suit-over-cwa-permit-test-method>

**David LaRoss**

**Friday, March 22, 2019**

California wastewater groups will ask the U.S. Court of Appeals for the 9th Circuit to block the state from using a contentious Clean Water Act (CWA) test method to measure compliance with facilities' discharge permits, potentially teeing up a precedential decision on utilities' claim that the method falls short of regulatory standards.

The plaintiffs in Southern California Alliance Of Publicly Owned Treatment Works (SCAP), et al., v. EPA filed a notice of appeal on March 21, signaling that they will seek to overturn a decision by a federal district judge that rejected their challenge to use of the test of significant toxicity (TST) as untimely.

If the 9th Circuit lets SCAP's case go forward it would lead to a hearing on the merits for utilities

opposed to the TST, which they say is unreliable, prone to false positives, and has not gone through the procedures needed to certify a test for assessing compliance of National Pollutant Discharge Elimination System (NPDES) permits under EPA's rules.

Along with SCAP and other California-specific groups, nationwide utility associations including the National Association of Clean Water Agencies have echoed their criticisms of the TST. They have said that if California follows through on its plan to adopt the test for use in whole effluent toxicity (WET) testing it would "set a troubling national precedent" for the wastewater program.

EPA describes the TST as "a statistical approach that assesses the WET measurement of wastewater effects on specific test organisms' ability to survive, grow, and reproduce."

But the SCAP suit faces potentially fatal procedural hurdles; the Feb. 19 ruling by Judge Morrison C. England of the U.S. District Court for the Eastern District of California marked the third time the California groups have had a TST challenge dismissed without regard for the merits of the test.

In the decision now being appealed to the 9th Circuit, England held that the deadline to challenge EPA's guidance that set out the TST method passed in 2016, months before SCAP and its allies brought their case, and that they could not extend the deadline through arguments that they were instead challenging officials' unlawful or ultra vires application of the guidance in NPDES permits.

He held that the groups' complaint "repackages the allegations as 'ultra vires' in a disingenuous attempt to avoid the effects of the applicable six-year statute of limitations."

Since California has delegated authority to issue NPDES permits, any challenge to the permits themselves would have to be brought in state court rather than federal court, meaning the decisions would not set precedents that are binding on EPA because it is only bound by federal court rulings.

[BACK TO TOP](#)

## **Think Progress**

### **EPA's 'secret science' proposal being used by Big Oil to undermine clean water rules**

<https://thinkprogress.org/oil-lobby-groups-epa-secret-science-proposal-clean-water-rules-9de63644deed/>

**Kyla Mandel**

**Friday, March 22, 2019**

Internal emails reveal two major fossil fuel trade groups are lobbying to stop the Environmental Protection Agency (EPA) from updating a decades-old list of toxic chemicals found in petroleum wastewater — and they're using the Trump administration's controversial "secret science" proposal to make their case.

The EPA currently monitors for 16 types of chemicals in wastewater, or effluent, released by petroleum refineries under the Clean Water Act. However, in the more than 40 years since the list

was developed, scientific understanding around the number of chemicals and their toxicity levels has grown. As a result, the EPA is in the early stages of determining whether the priority list of chemicals needs to be updated.

But according to emails released to the Sierra Club and reviewed by ThinkProgress, the American Petroleum Institute (API) and the American Fuel and Petrochemical Manufacturers (AFPM) are lobbying to limit the scope of the EPA's study.

The fossil fuel trade groups want to ensure that two categories of chemicals known to be toxic to aquatic life, and potentially harmful to humans, are excluded from the study: alkylated polynuclear aromatic hydrocarbons (alkylated-PAHs) and naphthenic acids (NAs). The industry even goes so far as to state that including these in a study would risk "legal challenges."

These two sets of chemicals are not currently on the EPA's priority list. There are hundreds of different variations of PAH chemicals and levels of toxicity (alkylated-PAHs, for instance, are a derivative of the main "parent" PAH compounds). Burning coal and oil is the main source for these chemicals.

Yet, according to Jan Andersson, a chemistry professor at the University of Münster in Germany who has studied the EPA's list, roughly 97 percent of the PAH chemical compounds found in crude oil are alkylated chemicals, making any lobbying against their inclusion quite significant. Meanwhile, NAs are found primarily in the byproduct of tar sands oil; the non-biodegradable compounds are stored in giant tailings ponds.

Excluding these types of chemicals from the EPA study would therefore serve to preemptively limit the scope of any potential rule changes in the future.

"They're trying to cook the books at the very earliest stages of a study for petroleum refinery and ignoring the considerable data that's out there that alkylated-PAHs are absolutely at least as toxic, if not more toxic, than the ones everybody monitors for right now," Betsy Southerland, former director of the EPA's Office of Water's Office of Science and Technology, told ThinkProgress. Southerland worked for the EPA for 30 years before resigning in 2017 in response to the change in leadership.

At high or prolonged exposure, PAH chemicals can cause tumors in aquatic life and birds as well as impact their reproduction, development, and immunity. Studies show that NAs have similar impacts, along with causing liver and heart damage in mice. Some known health effects to humans from PAH exposure include eye and skin irritation, nausea, and diarrhea, as well as longer-term impacts such as kidney or liver damage and asthma-like symptoms.

Scientists are still studying how the various chemicals impact humans; a range of PAH chemicals are classified as suspected or possibly carcinogenic to humans. What is known though, is that alkylated-PAHs are likely more toxic than other types of PAHs. They also take a longer time to biodegrade in the environment.

The ‘secret science’ argument

Issued by the EPA in 1976, the list of 16 types of PAH chemicals is used to determine which chemicals must be monitored for risks to drinking water and human health. Under the Clean Water Act, petroleum wastewater effluent guidelines establish a national floor — a baseline limit — for these chemicals. So, if there is a discharge of waste such as the release of industrial wastewater, stormwater runoff, or oil spills, only these 16 chemicals are tested to determine the level of toxicity.

The simplicity of the list has made the process easily applicable and cost-effective, and other countries have also turned to it as a resource. The list hasn’t just been used to monitor wastewater, either — environmental studies frequently use it as a basis for research. However, as a 2015 article co-authored by Andersson and published in the academic journal Polycyclic Aromatic Compounds notes, the list leaves out three large groups of these chemical compounds, including alkylated-PAHs. As the paper states, crude oil and coal are “rich” in alkyl compounds.

Despite the potential impact on human health and the environment, the levels of these chemicals currently found in petroleum wastewater is unknown; that’s one thing the EPA’s study would determine. PAH concentrations can vary from site-to-site and by the source of the crude oil. The findings would then help guide any necessary changes to the list of chemicals that should be regulated.

As part of its argument against the EPA measuring these chemicals, the trade groups are using the EPA’s proposed “secret science” rule to argue against disclosure of NAs because that would constitute a risk to companies’ proprietary data.

The proposed rule, also known as the “Strengthening Transparency in Regulatory Science” rule, was introduced last April by former EPA administrator Scott Pruitt. The rule has been supported by climate science deniers and effectively aims to restrict the use of scientific evidence in the rule-making process. The plan has been stalled under Administrator Andrew Wheeler, but if adopted, it would require the EPA to rely only on scientific studies where the underlying data used by the researchers is made public. Critics argue the bill would severely limit the kind of science the EPA could use in justifying regulations (excluding public health data, for instance) and would place a number of unnecessary burdens on EPA scientists.

Some in the chemical and fossil fuel industries, both of which maintain close ties with the Trump administration, have also warned that the rule would expose confidential corporate information. In a June 8, 2018 letter attached to an email to Brian d’Amico, branch chief at the EPA’s Office of Ground Water and Drinking Water, API and AFPM wrote that using the industry’s own proprietary method of analyzing naphthenic acids would be a “clear contradiction” to the EPA’s proposed secret science rule.

“Independent validation is clearly not possible when a proprietary analytical method is used to generate the data,” the organizations argued. “In the interest of transparency, per its own proposed rule, EPA should abandon the use of this proprietary method in the Detailed Study.”

“Data derived from these methods could result in the EPA facing substantial scientific and legal challenge,” API and AFPM warned.

In other words, under the hypothetical scenario where the EPA decides to update its chemicals list at a time when the secret science rule is officially adopted, it would require the results of the EPA’s effluent study be made public, as that would be considered underlying data used to introduce the new chemicals rule. But doing so would, in the eyes of the fossil fuel industry, violate their proprietary methods used to analyze the chemical and so the chemicals should instead be simply excluded from the very beginning to avoid such a scenario.

“Quoting a rule that has not even gone final yet for the reason why [the EPA] shouldn’t be allowed to monitor it is pretty outrageous,” said Southerland.

The EPA did not respond to a request for comment from ThinkProgress about whether or not it will be studying the two types of chemicals the fossil fuel industry has been lobbying against. The API and AFPM also did not respond to requests for comment.

#### ‘Obsolete’ list

The fossil fuel industry is also arguing that the EPA doesn’t have sufficient data to claim that these two groups of chemicals should be regulated. As Roger E. Claff, senior scientific adviser at API, wrote in a February 2018 email to d’Amico, among the concerns is a “lack of toxicity data for decision-making.”

But as Southerland explained, that’s precisely why the EPA is initiating its study; growing scientific findings suggest these chemicals are highly toxic and therefore updates might be warranted. Meanwhile, she said, “API is saying ‘hell no.’”

Andersson made the case for updating the list in his 2015 paper. The 1976 list was created based on what was commercially available at the time, but many more variations of PAH chemicals exist now. Meanwhile, toxicology has improved understanding of the adverse health impacts of a wide range of these chemicals, and “a wealth of new compounds have been added to the inventory of confirmed or suspect carcinogens.”

“This list of compounds is not suitable,” Andersson told ThinkProgress. “Most of them are pretty innocuous... [there are] many that are much more toxic that don’t appear on this list because in 1976, people didn’t know about them. This list looks pretty obsolete.”

#### ‘Collaboration through the years’

The first meeting between the EPA and the fossil fuel trade groups on this issue occurred in May 2016, under the Obama administration. And as a January 2018 slide show presentation to the Trump administration shows, the industry highlighted its “collaboration through the years” with the EPA.

Internal emails released to the Sierra Club show a January 2018 presentation by API to the EPA. INTERNAL EMAILS RELEASED TO THE SIERRA CLUB SHOW A JANUARY 2018 PRESENTATION BY API TO THE EPA.

Of course, some degree of collaboration is needed in order for the EPA to properly conduct its study and gather the necessary data. However, the internal emails provide insight into the scale of influence the fossil fuel lobby is trying to exert at the very early stages of decision making.

Dalal Aboulhosn, who works on federal water policy for the Sierra Club, said this shows how under the current administration industry “is allowed to come in and pretty much write their wish list.”

On water specifically she said, there has been a pattern of industry approaching the EPA under both Pruitt and Wheeler with policy ideas before the EPA has actually decided to move on the issue. Shortly after, a change is announced.

“It’s very blatant and it’s across the board when it comes to issues in the agency, and we’re seeing it very starkly on water issues,” Aboulhosn said.

Indeed, after arguing last June that “the science and data for the toxicity of NAs and alkylated-PAHs are still a work in progress,” the two trade groups go so far as to suggest that, should the EPA wish to study them, the agency must address these two groups of chemicals “in a project outside of the Study.”

They argue the EPA should make a new official rule in order to create a new “method” for studying these chemicals. This separate project should undergo “the appropriate public notice and comment period required to gain method approval,” the trade groups’ letter states.

This, however, would be highly uncommon given public notice and comment periods typically apply to new regulations, or changes to existing regulations (such as repealing the Obama-era Clean Power Plan or introducing the “secret science” rule); it would also serve to delay the process by several years.

“It sounds like they’re trying to set some new bar to any future detailed studies,” Southerland said, “where no analyses can be done unless there’s a standard method... that would be a bar not just for petroleum refinery but every industry category.”

It quickly becomes a “chicken and egg” situation, Southerland said; you need a study to determine if a new rule is needed, but the industry is arguing you need a new rule before conducting the study.

But as the June 2018 industry letter to the EPA reads, “API and AFPM members believe in due diligence and support EPA in developing sound science.”

[BACK TO TOP](#)

## **Think Progress**

### **Ongoing Midwest flooding project to cost billions of dollars in damages**

<https://thinkprogress.org/midwest-flood-nebraska-iowa-cost-billions-f065de317186/>

**Kyla Mandel**



**Friday, March 22, 2019**

Devastating floods across the Midwest are expected to cost the country at least \$3 billion in damages to homes and farms.

This is likely only the beginning as unprecedented flooding is expected to continue into the spring across the United States, according to a new forecast by the National Oceanic and Atmospheric Administration (NOAA), putting some 13 million Americans at risk of serious inundation.

According to the forecast, an extremely wet winter is driving the flood risk, as “several portions of the country received accumulated precipitation exceeding 200 percent of average to date.”

Nebraska is currently experiencing its worst flooding in half a century. At least three people have died in the aftermath of last week’s “bomb cyclone,” which passed through the region. The rain from that weather event, coupled with record-breaking snowfall earlier in the season that has been melting, caused rivers to crest and submerged vast areas underwater.

Several other states, including Iowa and Missouri, are also grappling with the destruction of numerous homes and large swaths of agricultural land.

Nebraska Gov. Pete Ricketts (R) reportedly said that while there have been disasters with greater loss of life, he didn’t think “there’s ever been a disaster this widespread in Nebraska.”

According to the Nebraska Farm Bureau, farm and ranch losses due to the flooding could total \$1 billion, with more than \$500 million in livestock losses alone. Estimates reported by The Washington Post put damages in Nebraska at a total \$1.4 billion. Agriculture represents 20 percent of the state’s gross domestic product and provides a quarter of all jobs in Nebraska, according to the Associated Press.

The flood damages incurred by Offutt Air Force Base in Nebraska, one of the nation’s most important air bases, are expected to cost significantly more than it would have cost to prevent the damages — despite officials’ knowledge that the base was at risk from flooding.

Meanwhile, in Iowa, Gov. Kim Reynolds (R) said the floods have caused an estimated \$1.6 billion in damage to the state. The cost of repairing damages to homes is expected to reach over \$480 million as an estimated 1,200 residences have been destroyed or seriously damaged. Businesses will take a \$300 million hit and agricultural damage in the state is expected to total \$214 million.

CREDIT: Nebraska National Guard

The Midwest’s flooding crisis is a terrifying preview of climate impacts to come

It is also expected to cost an estimated \$350 million to repair 70 miles of broken levees in Iowa that have been damaged or destroyed by the floods.

At least a dozen levees across the three states breached and flooding is expected to continue as water levels remain high along the Missouri River. However, according to the U.S. Army Corps of

Engineers, which is responsible for maintaining levees, repairs usually take about six months. With the most flood-prone time of the year beginning mid-May, this means the area is at risk of further flooding in the near future should the levees not be repaired in time.

Missouri officials have yet to release estimates for addressing flood-related impacts in the state.

While visiting the region this week, Vice President Mike Pence said the Trump administration will expedite presidential disaster declarations for Nebraska and Iowa. Pence called the flooding “extraordinary” but made no mention of climate change.

Despite the historic flooding taking place in the United States — as well as in Mozambique, Zimbabwe, and Malawi — Environmental Protection Agency (EPA) Administrator Andrew Wheeler this week said he believes climate impacts are still “50 to 75 years out.”

Miguel and Mabel Ramos, both 73-years-old, are traumatized by the devastation caused by the Blue Cut Fire that swept through their residence in California. (Credit: Irfan Khan/Los Angeles Times via Getty Images)

There were 14 billion-dollar natural disasters in 2018

The government’s own National Climate Assessment, on which Wheeler’s EPA signed off, states the exact opposite. “The impacts of climate change are already being felt in communities across the country,” the first line warns. The assessment also emphasizes that increased flooding in the Midwest is one of the expected impacts of a warming world.

Scientists are clear that climate change will make events like hurricanes, flooding, wildfires, and heatwaves all more intense — and more expensive. Last year, for instance, the United States experienced 14 separate billion-dollar disasters, according to NOAA data. Just three of these accounted for the bulk of the total \$91 billion: Hurricanes Michael and Florence and wildfires in California.

Three months into the year and with unprecedented flooding expected to continue, this year looks to be another expensive one.

[BACK TO TOP](#)

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